the weekly Standard

JULY 24, 2000

$3.95

A HANDOUT FOR EVERYONE?
JOHN J. DIIULIO JR.

Taking the Second Amendment Seriously

BY NELSON LUND

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Let Her Sweat?

The assault on universal electric service... hometown consumers at risk.

DURING THE HOTTEST HOURS of the summer, parts of the electricity grid reach capacity. The allocation of this sometimes scarce transmission capacity...is now what the utility restructuring debate is all about.

A scheme advanced by a few giant electricity marketers and their proxy coalition—*Americans for Affordable Electricity*—seeks to game the transmission system through a sweeping federal preemption. This preemption would push aside the obligation of local utilities to provide universal service to hometown consumers—90% of whom are small business and residential ratepayers.

Of course, some of these marketers don't sell even one electron of power to ordinary consumers. They only have eyes for the "Big Dog."

The electricity marketers' proposal—which masquerades as a pollyannaish "reliability" argument—could force local utilities to cut power to their hometown customers when the mercury is soaring and transmission is tight. Hometown customers would no longer stand first in line to receive power when transmission is scarce.

The impact of this proposal on hometown consumers?

Let 'Em Sweat!

EUSA
Electric Utility Shareholders Alliance

P.O. Box 104595
Jefferson City, MO 65110-4595

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The *Boston Globe*'s Jacoby Purge

When the *Boston Globe*'s award-winning conservative columnist Jeff Jacoby sat down to write an inspirational Fourth of July column on the fates suffered by many of the signers of the Declaration of Independence (not good, it turns out), he made much mention of sacrifice and poverty, persecution, and even death. What he failed to mention is that a similar version of this tale, riddled with errors, had been sloshing around the Internet for years. Though Jacoby fleshed out the story, drawing from a book by Paul Harvey and a Rush Limbaugh newsletter, and though he weeded out many of the errant details, his superiors handed him a four-month suspension without pay and made clear no tears would spill if he resigned.

Since his suspension, critics of all stripes have come to Jacoby's defense, from the *Boston Phoenix*'s Dan Kennedy to Bob Hardman, a gay copy editor at the *Globe* who, in the past, voiced vehement objections to Jacoby columns he viewed as anti-gay. Conservative critics have suggested that the suspension was a political rub-out, a chance for the *Globe* to silence its lone conservative voice. In an interview with THE SCRAPBOOK, Jacoby, who has written for THE WEEKLY STANDARD, declines to endorse that theory. Instead, he says he is prepared to believe that the harsh punishment resulted from skittish *Globe* brass, still charred by the 1998 plagiarism/fabrication scandals visited on them by columnists Mike Barnicle and Patricia Smith.

THE SCRAPBOOK is willing to buy this, with a few caveats. Barnicle was first accused of borrowing people's work in 1992, but wasn't actually run off until the evidence of his fabrications mounted six years later. When Patricia Smith was exposed as a serial fabricator, the *Globe* still took several weeks to dismiss her, and let her write a defiant farewell column to boot. Jacoby, whom nobody has accused of actual plagiarism, as he was using facts in the public domain (he had even mentioned the Internet version of the story in an advance e-mail of the column that he sent out to acquaintances), was sent packing within five days. He wasn't even invited to make his case to editor Renee Loth until the morning of his suspension.

Loth, who became editorial-page editor in May, has hamstrung her own best defense against political favoritism, telling reporters that the severity of the punishment had nothing to do with the Barnicle/Smith fiascoes. Likewise, Jacoby has said that Loth told him if he came back (he has a 3-year-old son, and a wife who works part-time, making the odds of his seeking other employment quite high), a "serious rethink" of his column is in order. It is unclear how rethinking the contents of Jacoby's column has anything to do with properly attributing the information therein. But with a nearly unanimous outcry of disproportionality, and a protest petition circulating among disgruntled *Globe* staffers, Loth, who's called herself a "bleeding heart with a brain," might want to rethink her rethink. ♦

Fox Butterfield Repeats Himself

Speaking of journalistic malpractice: The *New York Times*'s Fox Butterfield has long been a favorite SCRAPBOOK whipping boy. Butterfield, who covers the criminal justice beat, writes a numbskull story once a year in which he notes declining crime rates and wonders, "Why is the number of inmates in prisons and jails around the nation still going up?" The possibility that crime rates go down when more criminals are incarcerated never manages to penetrate Butterfield's, or the *Times*'s, ideological forcefield.

Now, though, we have an explanation for why Butterfield seems locked in a time warp: He's just been rewriting his own old clips. In the Manhattan Institute's *City Journal*, Heather Mac Donald does some brilliant detective work showing how Butterfield often heedlessly recycles his own material, barely recast. Here is Butterfield in an April 4, 1999, article:

> Rana Sampson, a former police sergeant in the city, who is director of public safety for the University of San Diego, said: "What N.Y.P.D. did was throw people at the problems. You can't put a cop on every corner, and do you really want to live in a society with a cop on every corner?"

And here is Butterfield precisely 11 months later, in a March 4, 2000, piece for the *Times*:

> Rana Sampson, a former police sergeant in New York who is director of public safety for the University of San Diego, said: "New York has paid a huge price. What the N.Y.P.D. did was throw people at the problem, putting cops on every corner, but who wants to live in a society like that?"

Then Mac Donald sticks the fork in: "Butterfield never got around to checking whether his good friend Sampson still worked at the University of San Diego in 2000; she didn't." Oops. ♦

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Hastert's Agent

"Personnel is policy," goes the old adage, and congressional Republicans tend to believe it. That's why many of them are so steamed over the decision by House speaker Denny Hastert to hire as his new senior adviser for foreign policy and defense someone whose last job was as a registered foreign agent.

Hastert's hire, Nancy Dorn, possessed pretty solid GOP credentials prior to her descent into Gucci Gulch: assistant secretary of the Army during the Bush administration, special assistant for legislative affairs in the Reagan administration, and a Republican staffer on the House Appropriations Committee in the 1980s.

What threw GOP staffers into a tizzy last week was the news that Dorn, while a lobbyist with the firm of Hooper, Owen, Gould & Winburn, had represented the government of Pakistan as well as Hutchison Port Holdings, a subsidiary of a Hong Kong-based company with close ties to the Chinese government. Dorn has also been identified as having represented the AFL-CIO and the government of Azerbaijan, though she assures THE SCRAPBOOK that such work was handled by others in her lobbying firm.

Still, it's not as if Dorn were representing the Little Sisters of the Poor. Pakistan has been a leading recipient of nuclear and missile technology from China. As for Hutchison Port Holdings, its owner is a Hong Kong tycoon named Li Ka-shing who is closely allied with the government in Beijing. The company made news a few years ago by purchasing ports at both ends of the Panama Canal. This provoked protest from Republicans like Trent Lott, as well as Democrats like John Breaux. Dorn, while a lobbyist, worked to assuage their fears that U.S. national security was threatened by Chinese ownership of these ports.

Obviously, lobbying work has never disqualified anyone from future government service. But it nonetheless speaks volumes about Hastert that he would hire Dorn. It reinforces the impression that his vision of foreign and defense policy has as much to do with commerce as it does with global strategy (there's a reason he's known as the congressman from Caterpillar, the global heavy equipment company in his district).

It also shows how little Hastert cares for appearances. He had to know that hiring Dorn would be controversial, given her client roster, and would incense a number of his GOP colleagues. Indeed, there were a number of people he could have hired who have never taken money from shady clients. Precisely what set Dorn apart from all of them remains a mystery. ♦

Help Wanted

THE WEEKLY STANDARD has an immediate opening for a staff accountant/bookkeeper with 2-3 years experience. Please send or fax résumé to: Business Manager, THE WEEKLY STANDARD, 1150 17th Street, NW, Suite 505, Washington, DC 20036. Fax: (202) 293-4901. ♦

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Casual

Love Me Tender, with Gravy

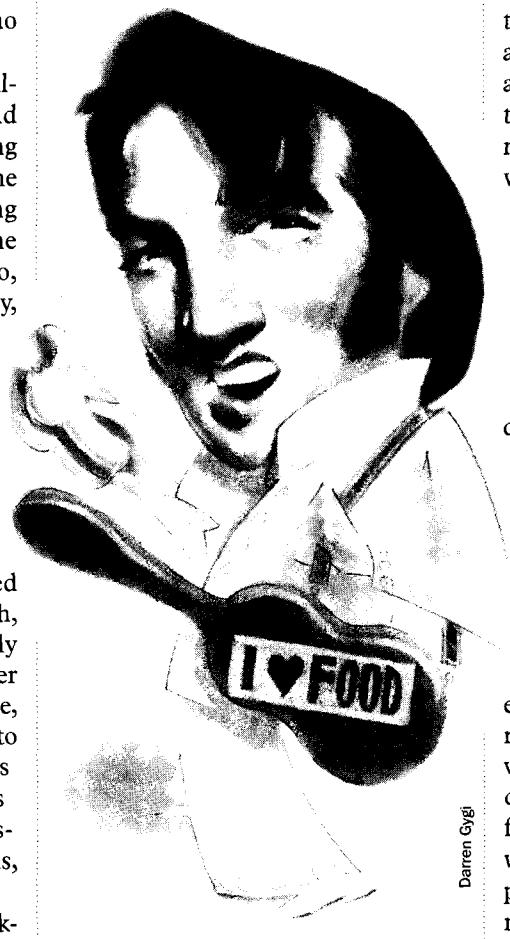
I love food. Not in a philosophical way, like M.F.K. Fisher, or in a sensual way, like the French. I love food the way a plumber from Pittsburgh loves football. I love bad food. This affinity for butter and eggs and anything with cheese is something I share in spirit with none other than the King of Rock 'n' Roll. Elvis Aaron Presley may have loved bad food more than any man who ever lived.

My little brother and I made a pilgrimage to Graceland recently, and while it was exciting and interesting to explore the first years of rock, the highlight of the trip was learning about how the King ate. Elvis came from humble beginnings in Tupelo, Mississippi, where, it's safe to say, there was never a surplus of food. This childhood partly explains his later gastronomic excess. Like a rich man buying the expensive toys he was denied as a child, Elvis was making up for lost eating time.

And did he ever make up for it. Elvis's favorite food was the fried peanut butter and banana sandwich, an item that he pursued like the Holy Grail. Elvis loved the peanut butter and banana sandwich, and, of course, he loved all things fried. So he tried to fry his beloved sandwich—for years unsuccessfully. The sad result was always the same, a soggy mess of disintegrating bread, squishy bananas, and liquid peanut butter.

Like all geniuses, Elvis had stick-to-itiveness. He brought in the big guns and hired a cook for Graceland. Mary Jenkins Langston, kind and literally stout of heart, found that the cause of Elvis's failure was his butter-to-sandwich ratio. The King had been using three sticks of butter for every two sandwiches he fried. In a brilliant display of collaborative engineering, Elvis's father, Vernon, suggested toasting the bread. Langston then set to work getting the butter titration just right. She cut back a smidgen on the Land O'Lakes, and *voilà*! Critics would later call Langston an "enabler" and an "accessory to murder." I call her a heroine.

Elvis also had the obsessiveness of a great eater. One night a meatloaf was



Darren Gygi

served for dinner, and he was taken with its thickness and density, not to mention the lardy gravy and buttery mashed potatoes. He ate—which is to say, he, Priscilla, Vernon, and all of their friends ate—meatloaf every night for the next six months.

Another story from the Elvis legend has him phoning his Memphis Mafia buddies late one night and telling them to come to Graceland with a toothbrush. The boys assembled, then Elvis called his flight crew and told them to fire up his jet, the *Lisa Marie*, and plot a course for Denver. Once they were airborne someone asked why they were going to Denver, and Elvis replied—with a lip curl, one assumes—that there was a diner out in Denver that made a to-die-for peanut butter sandwich called the Fool's Gold. Details on the Fool's Gold, like sightings of sasquatch, are a subject of controversy, but Elvisologist Steve Burgess reports that it consisted of "an entire Italian bread loaf slathered in butter and hollowed out to contain a jar of Skippy peanut butter, a jar of Smucker's grape jelly and a pound of fried bacon." That may be apocryphal, but I like to believe it's true. Either way, this was the first of many trips along the Memphis-Denver corridor.

Mary Jenkins Langston claimed that food, not music, was Elvis's real passion. "He said that the only thing in life he got any enjoyment out of was eating," she remembered. But she also saw the dark side of his love. She saw things that even Priscilla won't talk about today. Langston once told the BBC that when she watched the King eat, "he'd have butter running down his arms."

While in Memphis, my brother and I ate several meals at the restaurant owned by the King's estate, and, while we never had butter running down our arms, our hands were shiny enough to make turning a doorknob difficult. We had lots of fried peanut butter and banana sandwiches, and meatloaf, and banana pudding, just like Elvis. Often after meals we found ourselves short of breath, and by the end of the week I began to sweat when I ate.

The conventional wisdom says that the King's demise at the tender age of 42 was due to his unfortunate addiction to prescription drugs. I have a fried peanut butter and banana sandwich that says otherwise.

Jonathan V. Last

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Our Commitment to Peace

America understands the importance of freedom. In East Timor, voting for freedom led to violence.

Last August, in a UN sponsored election, the people of East Timor voted to become an independent nation. The vote caused a wave of violence from militias opposed to the vote. Tens of thousands of men, women and children were forced into exile. Today, the people of East Timor can return to their homes because UN peacekeepers helped to end the violence.

The citizens of East Timor are building a new nation, founded on the democratic values we cherish.

UN peacekeeping is never easy, but it works.

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East Timor is only one of many nations where UN peacekeepers have helped to restore democracy, opportunity, and stability. And that's good for our national security, too.

Congress and the President should meet our obligation to UN peacekeeping. It's a smart investment in America's security.

UN Peacekeeping. A smart investment in security.

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Correspondence

Oprah's Letter Club

I thoroughly enjoyed David Skinner's "In Oprah We Trust" (July 3/July 10). Not only was the article well written, but Skinner's ability to synthesize and evaluate the vast Oprah empire in such a limited space is phenomenal. Perhaps he should consider expanding the article into a book-length treatment of the subject; the analysis would be invaluable for students of culture, communication, or education.

Terry L. Stoops
Pittsburgh, PA

David Skinner's article on Oprah Winfrey was entertaining, but I take issue with a particular opinion he expressed regarding two female authors, Isabel Allende and Toni Morrison. Skinner claims they "belong to that school whose works would be less praised were they written by men." Is this statement something with which there is general agreement in the world of literary critics? Skinner follows it up with no supporting evidence. Are there comparable works written by men that have received less praise? If so, how can one be reasonably sure this is because of gender and not the capricious nature of success and recognition? Skinner's statement does little to advance the point of his article, and instead attempts to minimize the success of these women.

Joetta Gobell
Irvine, CA

Oprah is not the villain David Skinner makes her out to be. She is just a voice for those of us who need to be heard. We're not all feminists, or homosexuals, or murderers of the traditional family. We are not far-out religious freaks, or new-age gurus. We are just people who were not listened to, not cared about, not encouraged, and perhaps forgotten. We are people who have freedom of religion, choice, opinion, and sexual orientation, and we work hard at being Americans, despite our differences with mainstream society.

I don't, however, choose to sit back and listen to a commentator like Skinner criticize a woman who, by my standard, is a messenger of good and decent humanity. She gives validation to a world of people who perhaps would not make it if someone did not take a stand for them. I don't see Oprah as a guru or a saint. She is just a female who made it to the top. She does not sit on her throne doing nothing. Oprah does all the things Skinner said in his article and more. Maybe she is a tool of God. Who is he to judge?

Skinner should spend more time criticizing the people who are really causing problems, not Oprah. She is just there to give a helping hand where there is none, a hug when one is needed, a tear of release, a smile to a lonely heart, and a story that needs to be heard. There is a world of women and men out there who

feel the same way I do. Oprah is not our God; she is just our friend.

Dianne Hanna Massey
Tucson, AZ

I am the first to admit that Oprah has turned being a victim into big bucks. I don't agree with it. I don't like it. I don't watch her show. She's a money-making machine like Rush Limbaugh, Jerry Springer, and Pat Robertson. I've always held the view that all these folks are in it for the money. But isn't that what capitalism is all about? If people don't like what she does, they should do what I do—turn the channel.

Gina Coleman
Indianapolis, IN

Abortion GOPolitics

Noemie Emery has contributed two articles to The Weekly Standard urging a compromise on abortion ("An Appeal to GOP Pro-Choicers," July 3/July 10; "Abortion and the Republican Party," Dec. 25, 1995). Not only is she preaching mainly to the choir, she has ignored some vitally important facts.

First and foremost, she fails to mention that abortion is a multi-million dollar industry. Just because the profiteers keep a low profile doesn't mean they take no part in every pro-choice assault on all our attempts to reduce the number of abortions through reasonable restrictions. Does anyone think they will welcome a compromise?

Nor does Emery allude to the growing lucrative market in body parts of aborted babies. The partial-birth abortion procedure is proving to be a bonanza. Scratch any hope of compromise with that bunch.

In addition, Emery glides quickly past the religious and moral objections as if they shouldn't matter. And she fails to recognize that pro-choicers have no need to seek a compromise. The law is on their side all the way to the Supreme Court. Maybe Emery can take copies of her article to the Republican feminists attending the GOP convention in Philadelphia. There is no evidence that they're seeking some sort of agreement with Phyllis Schlafly's pro-life forces.

Let's be quite candid about it: The neo-cons want nothing less than for us "extremists" to shut up and stay home—except, of course, on Election Day.

Maria Nolan
Jenkintown, PA

Noemie Emery's "appeal to GOP pro-choicers" wrongly assumes GOP pro-choicers want to appease the religious radicals who have stolen their party. It also assumes, wrongly, that pro-choice Republican politicians are willing to risk ridicule by suggesting that abortion is a "'right' that is wrong."

Instead of cynically appealing to pro-choice Republicans with a highly emotional and biased article, Emery would do well to review the scientific literature that says nature aborts most newly con-

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In Addressing Climate Change...

They're All On the *Same Side.*

Leaders of diverse industries are taking a common stand: global climate change is a serious problem that demands serious action. Many companies are assessing their emissions and establishing programs to reduce them.

More companies need to accept the challenge of reducing their greenhouse gas emissions. But these companies cannot succeed by themselves. Governments must encourage, support and provide legal recognition for domestic reductions, and establish national and global frameworks that are equitable and effective. And, citizens can make daily decisions that affect energy use and reduce greenhouse gas emissions.

So stand along side these businesses.
It can make a world of difference.

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For more information on what these companies are doing to reduce greenhouse gas emissions please visit

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ceived babies in the first month or two and that there is no real human present until the seventh month. Then the fetus becomes a real person with feelings, which means it should not be aborted after the sixth month. Religious radicals who contend that early abortions take lives are wrong. Many more fetuses are aborted naturally than by abortionists. This could be the basis for a new compromise in the abortion debate, but neither side's fanatics want to acknowledge it or use it to promote consensus.

Meanwhile, articles like Emery's convince this life-long conservative Republican that it will be better to give a one-term President Gore the opportunity to stack the Supreme Court in favor of less governmental involvement in our personal and religious lives. No pro-choice Republican or strict constitutionalist should want George W. Bush picking the next three or four Supreme Court justices. Bush and congressional Republicans have scared GOP swing voters away, and the Emerys of this world certainly won't bring us back in 2000.

DONALD E.L. JOHNSON
Greenwood Village, CO

HASN'T HURT WHOM?

IN TOD LINDBERG'S STORY on the waning of the impeachment issue, he writes that everyone assumed Republicans would pay a penalty in November 2000 for defying the public's will ("Impeachment Hasn't Hurt," July 3/July 10). As a consultant working for state and local candidates in November 1998, I can tell him firsthand that the day of reckoning came two years earlier. While most Republican members of Congress, securely ensconced in safe seats, escaped punishment, the electorate directed its wrath at candidates for county council and state legislature. Many a political career was derailed that day, for reasons totally unrelated to schools or zoning or the sales tax. I agree with Lindberg that the issue has nearly disappeared from the radar screen since then, but it is wrong to suggest that "impeachment hasn't hurt," because it most certainly has.

CAROL A. ARSCOTT
Ellicott City, MD

ROCKING THE ART WORLD

CATESBY LEIGH'S REVIEW of the Norman Rockwell exhibit at the Corcoran Gallery of Art ("Norman Conquest," July 3/July 10) accomplishes in four pages what it has taken more than four decades for the art world to acknowledge: that Rockwell was an artist of the first rank, with a well-developed philosophy and a concentrated aesthetic that is a wonder to behold. Hats off to THE WEEKLY STANDARD and Leigh for a thorough, thoughtful review of a great American who's had to wait far too long for the respect due him and his artistic contribution.

TIM GOEGLEIN
Alexandria, VA

BURT AND ERNST

AS A FAN OF BOTH David Evanier's writing and Burt Lancaster's films, I write not to criticize but to add a point ("The Sweet Smell of Success," June 26). Evanier's review was superb and penetrating, but I wish he had added one other Lancaster role to his list of this unique and fearless actor's striking performances: that of the former Nazi judge Ernst Janning, in Stanley Kramer's 1962 *Judgment at Nuremberg*.

It was a courageous supporting role, coming so soon after his *Elmer Gantry* Oscar, and complex because the character reflects qualities both heroic (overriding the defense strategy of his counsel—played by Maximilian Schell, who won a Best Actor Oscar for his work) and repulsive (claiming he could not have foreseen that enforcing the Nuremberg race laws would pave the path to the Holocaust). Lancaster's role was relatively small and a bit quirky, but crucial to the film's power and effectiveness.

ALAN M. SCHWARTZ
Teaneck, NJ

NEXT WEEK: SNOWBOARDING

I JUST ABOUT LOST MY BREATH when I opened my crisp new issue of THE WEEKLY STANDARD and found Chad Muska's name in Joseph Epstein's Casual ("Foot Fop," July 3/July 10). At first I thought I had picked up the wrong magazine, but I flipped the cover over and realized it was, in fact, THE WEEKLY STANDARD.

See, I just might be one of the only WEEKLY STANDARD subscribers who knows who Chad Muska (aka "the Muska") actually is, and who also subscribes to skateboarding magazines. I am a 26-year-old skater who wears a backwards cap and who has discovered that politics and your magazine have taken the place of the ol' wooden toy with wheels. As my body begins to ache and my responsibilities blossom with two wonderful kids, my obsession with skateboarding is slowly being replaced by conservative political thought. Luckily, THE WEEKLY STANDARD shares the same style and wit of some of my skateboarding magazines. Good writing is enjoyable regardless of the subject.

So next time you see a skateboarder, remember that he could be a subscriber. And if you get a chance, try the new Rick Howard shoe by Lakai. I love 'em but my wife says they're ugly.

BRIAN NOEL
Villa Hills, KY

BUY ONE, GET ONE FREE

I ENJOYED P.J. O'ROURKE'S witty proposal for a free market in votes ("Psst—Hey Buddy, Wanna Buy A Vote?" July 3/July10). But I feel obliged to mention that, consciously or otherwise, he was echoing Nobel laureate George Stigler, who floated the idea some 20 years ago—and wasn't kidding.

DAN SELIGMAN
New York, NY

• • •

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welcomes letters to the editor.
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Preventing Birth Defects Could Be Within Our Grasp

Health Tracking is the First Step

Rates for a number of major birth defects are on the rise. But public health researchers can't tell parents why and they don't have the data to determine causes, plot clusters, or prevent birth defects.

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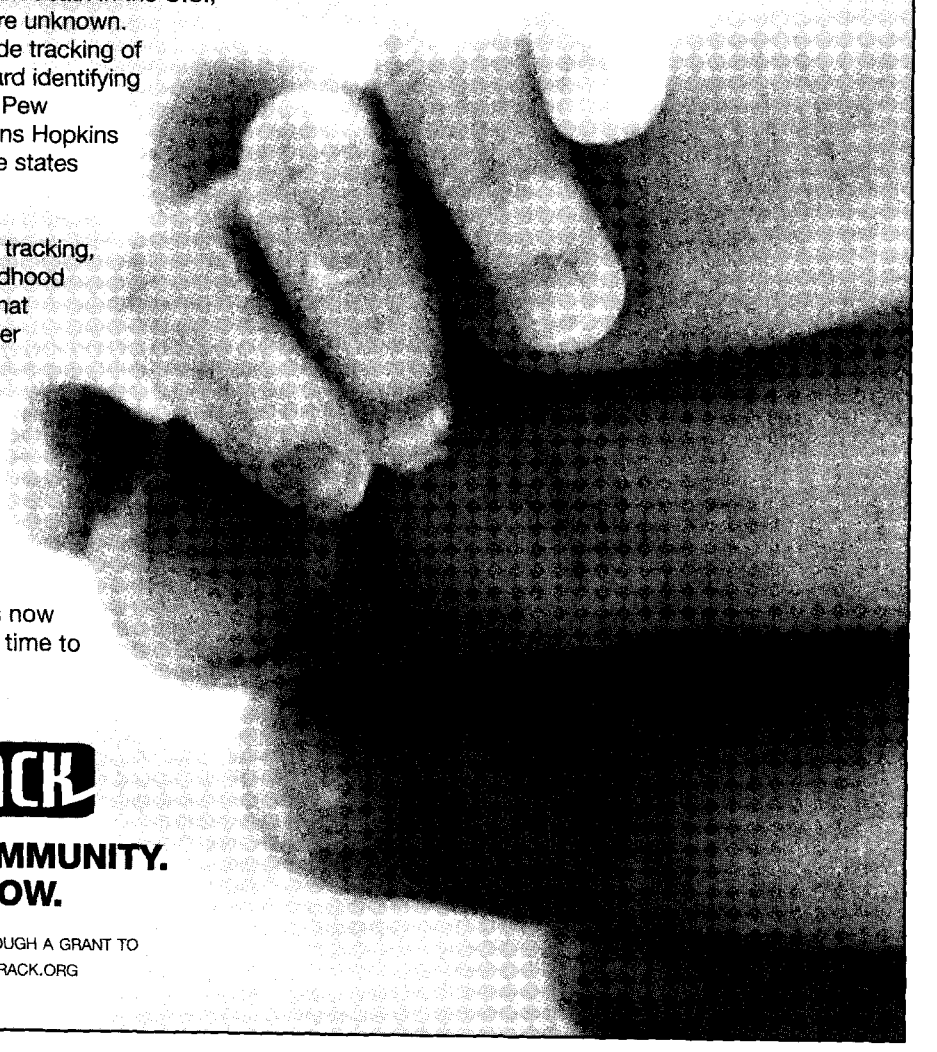

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the weekly Standard

A Real Choice on Race

Remember the magnum opus that Bill Clinton was going to pen about race relations, the greatest domestic policy question of them all? Even though it isn't really part of the president's "day job," a White House spokesman recently explained, the book nevertheless remains every bit as super important to him as it was when he started "writing" it more than three years ago. He still plans to "finish" it. Sooner or later.

But, let's face it, probably never. Which is rather odd. Clinton, a man to whom getting and holding public attention has been the paramount concern since before he began wearing long pants, has less than half a year's claim left on the most attention-grabbing office in the universe. The nation's color divide is far from healed. Intelligent and sensitive engagement with that problem has always been advertised as Clinton's signal qualification for leadership. So you would think the president would be desperately eager to take one last, legacy-burnishing stab at the issue of race.

Except it seems he isn't. Here, as about so many other areas of our public life, this most frenetic of presidents has lately developed an eerie, contented, almost lazy calm. Why is that?

Perhaps it is that he believes there's no real hurry. Perhaps he believes that his pending retirement might ultimately prove a mere technicality—that for all practical purposes most folks won't hardly even notice he's gone.

Thursday morning last week, the president took a breather from the Israeli-Palestinian final-settlement negotiations he is nominally hosting at Camp David to fly up to Baltimore for an appearance at this year's NAACP national convention. His speech was an *echt* Clinton moment, all at once unctuous, dishonest, and brutally partisan. And altogether—sickeningly—masterful.

It "happens every day" in this country that someone dies because he is refused admission to the nearest emergency room, Clinton claimed, and the congressional GOP opposes the legislation that would redress this travesty. But hey, he went on, there are "big and honest differences" between the parties, and Republicans "really do believe" what they say—like that hospitals should be allowed to turn away the mortally wounded, presumably. Both sides in such a disagreement can be "honorable and good," the president advised, always the phony gentleman.

Clinton never once blushed. Nor did he feel the need to offer the NAACP a valedictory statement about race, or anything else. Bill Clinton's long, enthusiastic speech was about . . . Bill Clinton. He has brought us unparalleled prosperity, he noted. And more such prosperity is what "we"—or "I"; the president's pronouns melted tellingly into each other throughout his talk—want to secure in the next few years. How is it that "we" can do that? We can elect Al Gore to succeed Bill Clinton. And then, "for the rest of the time the good Lord gives me on this Earth, *I'll* be with you. *I'll* work with you."

Al Gore's first administration would be Bill Clinton's third. Nothing more, nothing less. So Clinton clearly thinks. And where race is concerned, at least, he's probably right. No wonder he's so relaxed.

Gore, too, spoke to the NAACP last week, the day before Clinton did. On the surface, the two men were easily distinguishable. Gore's speech, as a speech, was horrible. As a speech to a group of black people, it was horribler. The vice president now does a great lot of hollering on the campaign trail, which is apparently intended to suggest that he is a man of intense conviction, and a manly man to boot. Gore seems to holler all the more when he is standing before an audience of minorities, maybe—who knows?—on the assumption that "they" respond best to exaggerated emotionalism. In any case, to the NAACP Gore hollered like a madman, almost start to finish.

But what he said was even worse than how he said it. Unlike the president, the vice president did attempt directly to address what he took to be the central challenges "diversity" still poses to America. Properly understood, he suggested, diversity is about group entitlement and advancement, one group at the expense of another. Gore made this point a dozen different ways. It would be great if the Democratic party retook control of the House of Representatives, he explained . . . because then Charlie Rangel and John Conyers—the vice president mentioned

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no lighter-skinned congressmen—would become committee chairmen.

The measure of a political party's commitment to racial justice, Gore went on, is numbers. Numbers of black people appointed to the courts and cabinet. Numbers, even, of airplane flights taken: "I have made more trips to Africa than I've made to Asia." And numbers, above all, written into law. Gore hollered his loudest in Baltimore when he promised to defend to the death the ethnic and gender spoils system that is federal affirmative action.

This is the solution to our racial woes, the vice president announced. He promised to provide it. And yet isn't this "solution" actually the *problem*? And hasn't it remained the problem since before Bill Clinton took office? And hasn't Clinton done nothing to ameliorate this problem; hasn't he instead cultivated it, for personal and partisan advantage? And isn't Al Gore obviously intent to follow his patron's lead? We are now a nation not of joined-together individual citizens, but of blocs, black and white—blocs that almost always approach each other in the public square, when they approach each other at all, the one with collective complaints and demands, the other with either paternalistic munificence or embarrassment or irritation. There is almost never an intelligent, candid, adult conversation.

And if Gore is elected—if that is, this kind of Clintonism is reelected—there will not soon be such a conversation. For the vice president is of the paternalistic, munificent party. And the paternalistic, munificent party gets the black vote. Automatically. That is enough, so far as Al Gore is concerned.

Before he said his goodbyes on Wednesday, Gore reminded the NAACP that George W. Bush, who had preceded him on the same podium two days earlier, not long ago rebuffed a nephew of the late James Byrd, victim of the notorious Jasper, Texas, truck-dragging murder. The young man had asked Bush to lend his support to a proposed federal hate-crimes bill. And Bush told the man "no," right to his face. To the vice president, this incident was evidence of an almost satanic racial insensitivity—or so Gore was more than pleased to pretend.

But as it happens, Bush's other-than-reflexive reaction to the Byrd tragedy spoke volumes about him, and spoke quite well. Not so much because of the narrow legislative question then at issue (though this magazine, too, believes the hate-crimes bill is ill-advised and likely counterproductive). Rather, Bush's "no" response to James Byrd's nephew was impressive simply because he was able to say the word at all in such a fraught situation—firmly, finally, coolly, and with neither defensiveness nor rancor. As if it were the most natural thing in the world for a white man to disagree (or agree) with a black man about politics. As if, in other words, there actually might not *be* different "black" and "white" answers to our national race conundrum. As if our habit of expecting such answers were half the problem to begin with.

How refreshing. Governor Bush's speech to the NAACP last Monday was very much in this spirit. He was not patronizing in the slightest. He was confident, friendly, "proud to be here." Bush did not paper over differences he and his party have had—and continue to have—with the NAACP as an organization. Indeed, Bush seemed to go out of his way to advocate education and federal housing-reform proposals that both include vouchers. And still, the governor felt able explicitly to ask for support from some in his audience. And bold enough to expect it.

It was a remarkable performance, like none we can remember from a presidential candidate in either party. We would like to hear more from Bush about race and justice and law, especially about what future he intends for affirmative action. But we like what we have heard already, for the most part. And we have no question but that it is vastly preferable to Al Gore's third Clinton administration.

—David Tell, for the Editors

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A Handout for Everyone

Do we really need a universal federal subsidy for prescription drugs? BY JOHN J. DIIULIO JR.

MY MOTHER, AGE 75, worked as a saleswoman in a department store. My father, age 76, worked as a deputy sheriff. Pensions plus Social Security give them an annual household income of about $18,000. Both have chronic health problems. They take a combined total of 20 different prescription drugs daily. Medicare, the main federal health care program for senior citizens, does not pay for their drugs. Their HMO used to cover the first $1,000 ($500 each) in drug purchases, but last January it began charging a $240 premium ($120 each), so now it actually covers only the first $760. They spend another $3,250 a year on medicines. Thus, their total annual out-of-pocket prescription drug spending is about $3,500, or 18.5 percent of their annual income.

Fixed-income elderly folks like my parents are poster children for Al Gore's proposal to have Medicare pay for senior citizens' prescription drugs at a cost of $255 billion for the first decade. Gore would have the national government give Medicare beneficiaries up to $5,000 a year for prescription drugs, and force pharmaceutical firms to offer them deep discounts.

If, like my own parents, most Medicare beneficiaries were senior citizens with yearly prescription drug bills representing nearly a fifth of their modest annual fixed incomes, then Gore's plan would be somewhat defensible. However, Medicare beneficiaries spend an average of only 4 percent of their annual income on prescription drugs. In 1999, about half of Medicare beneficiaries spent less than $500 for drugs; 45 percent spent $500 to $3,000; and just 6 percent spent $3,000 or more. Some among that 6 percent were rich retirees, most were middle-income elderly persons, and a minority were older folks with incomes as low or lower than my parents.

Gore is promoting his prescription plan by demonizing drug companies. He's right that their profits have "gone through the roof," but that's happened mainly because sales have soared and medicines have never been better. This year Americans will spend a record $115 billion on prescription drugs. Persons age 65 and older, 13 percent of the population, will shell out close to a third of that total. Seniors spend about a dozen times more per capita for prescription drugs today than they did in 1970, and it is mostly money well spent. Like my father, who is bound to a wheelchair but still gets around, millions of ailing older Americans would be either dead or completely debilitated without their pills.

Gore also talks about "fighting for" senior citizens against their ostensibly heartless, penny-pinching health maintenance organizations. Bashing HMOs is popular and not entirely unjustified, but it is also overdone and, coming from Gore, hypocritical. For all the horror stories, most elderly managed-care patients are satisfied with their providers. HMOs do indeed "ration" health care, a fact for which we all should be grateful. From 1960 to 1990, health spending grew on average three percentage points a year faster than the gross domestic product; at that rate, health spending would be eating up half the GDP in 2050. Since 1993, however, the maturing HMO industry has helped flatten health spending to 13.5 percent of GDP. The Clinton-Gore administration rightly made HMO growth a centerpiece of its otherwise flawed 1993 health care initiative.

While Gore searches feverishly for campaign issues to win elderly support, real health crises go unaddressed. Take the children who make up half of the recipients of Medicaid, the main federal-state health insurance program for low-income citizens. Medicaid spends only about a sixth of every dollar on the young. Compared with the money the program devotes to middle-class geriatric patients who have "spent down" their assets to qualify for quality long-term nursing home care and the like, Medicare's pediatric spending is downright stingy. Nationwide, poor children in need of serious medical attention are receiving inadequate public health services. But substandard care still beats no care, and millions of poor children are now getting no care. In New York City and elsewhere, one perverse and unintended administrative consequence of reducing welfare rolls has been a drop in the percentage of eligible children on Medicaid. Given this problem, Gore's prescription-drug pandering to middle-class senior citizens is, well, a bit sickening.

The $255 billion price tag on Gore's plan is a conservative guesstimate. Lord only knows how much it would actually cost over time. But the trouble with his plan goes deeper. Although the average Medicare recipient spends just 4 percent a year on medicine, we are supposed to believe this is a problem requiring national government action. Why shouldn't folks like my own parents—the 6 percent of seniors who spend more than $3,000 a year for medicine—not look first to themselves and to their own families, next to their churches and neighbors, then to their state and local governments, and only last to

Contributing editor John J. DiIulio Jr., a University of Pennsylvania professor and senior fellow at the Manhattan Institute, has co-edited two Brookings Institution volumes on health care, Making Health Reform Work *(with Richard P. Nathan) and* Medicaid and Devolution *(with Frank Thompson).*

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Washington for any necessary financial help?

The practical answer is that middle-class baby boomers, now ages 36 to 54, don't save enough for their own kids' college educations, don't save enough for their own retirement years, and generally don't save one penny for their own parents' health care needs. They are quick to assume the monthly lease payments on new sport utility vehicles, but they count on government to take care of much or all of the rest—college loans, Social Security, Medicare, Medicaid, and so on. What is more, they know what they are about. As every survey shows, boomers are willing to pay higher taxes to avoid cuts in these programs, which is to say, to avoid having to assume more personal and familial responsibility.

Congressional Republicans have offered various prescription drug plans that are really just less generous versions of Gore's. The Bush campaign has yet to go public with any detailed proposal, but the only major difference between Bush and Gore on this issue may turn out to be the greater extent to which Bush would work through private insurers.

Most likely, Gore's plan, or something close to it, will prevail politically, demonstrating once again that the nation remains addicted to big government programs, even as it claims otherwise. Americans, young and old, have yet to kick the habit of having Uncle Sam do for us things that we would be better off as a people doing for ourselves and each other. The national government has, indeed, a large and legitimate role in delivering food, money, and medicine to needy citizens. We should not, however, enact a single new Washington-centric social policy until we have exhausted all the alternatives civil institutions and state and local governments have to offer. And over the next few years we are likely to see other policy debates that, like the prescription drug question, will show whether we are resuscitating civil society and revitalizing federalism or merely pulling the plugs on them. ♦

Oh Happy Day

Canada's newest party leader charms long-suffering conservatives. BY DAVID FRUM

BY THE TIME Mexican voters ejected the PRI from power on July 2, it had racked up a record of 71 continuous years in power. Only two other 20th-century political entities have endured so long: One was the Communist party of the Soviet Union, which also died at age 71; the other is the Liberal party of Canada, which has ruled for 70 of the past 100 years and is still going strong.

Not as strong, however, as it was going two weeks ago. On July 8, more than 100,000 members of the new Canadian Alliance party nominated a new leader: Stockwell Day, the former minister of finance of the oil-rich western province of Alberta.

Compared with the dreary careerists who dominate Canadian politics, Day shines like a sunny moment in a month of rain. Handsome, amusing, and athletic—he once chased on foot and arrested a crook who made the mistake of robbing a convenience store in Day's home constituency—he is also a devout Pentecostalist who refuses to work on Sundays and a father of five and (at 49) grandfather of three. He is a champion of the interests of western Canada who—almost unheard-of on the prairies—speaks passable French; a staunch social conservative who once worked as an interior decorator; and, most notably, a politician who in 14 years of public life has never lost an election.

What's most important about Day, though, is not his personal appeal. It is his potential to put an end to the vote-splitting that has crippled the Canadian right since 1993 and extended the Liberals' tenure long past their sell-by date.

Contributing editor David Frum is a columnist for Canada's National Post.

Since the 1890s, Canada's Conservatives have been the political equivalent of the Washington Generals, whose role it is to lose every game against the Harlem Globetrotters. Once every few decades—1911, 1930, 1958—Conservatives would enjoy what looked like a decisive victory. But the victory would tarnish almost instantly, and at the next election the Liberals would regain power for another 10, 20, or 30 years.

This sorry history seemed to be coming to an end in the 1980s. The Conservatives had at last found themselves a competent leader, a flawlessly bilingual Montreal lawyer named Brian Mulroney, and in 1984 he won a landslide victory by promising to balance the budget, cut taxes, and allay Quebec separatism. Although Canada's dour voters soon wearied of Mulroney's sweet-talking style, his government made an impressive dent in Canada's problems. It privatized state-owned corporations, held the line on government spending, and negotiated a free-trade agreement with the United States. In 1988, Mulroney won a second consecutive majority—something the Conservatives had not managed since the First World War.

But even as Mulroney triumphed, the foundations of his government were rotting. He didn't deliver on his tax cut promise—in fact he introduced a national sales tax—and he didn't cut government spending enough to come close to balancing the budget. Meanwhile, the concessions he offered Quebec were irritating the Conservative party's western base, which couldn't understand why its region's equally heartfelt grievances never seemed worthy of the prime minister's attention. Westerners were unhappy too about the Mulroney gov-

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ernment's social liberalism. Canada's once-cautious judiciary had been granted enormous new powers by Pierre Trudeau, and in the 1980s the judges started to use them: striking down all abortion laws, rewriting divorce law along feminist lines, hampering law enforcement, prodding the country toward gay marriage. Mulroney quietly submitted to it all, and his judicial appointments soon proved as wild as Trudeau's worst.

Ideologically, in fact, the Mulroney government resembled the Nixon administration: a right-of-center electoral coalition controlled by its least conservative members. Sometimes it seemed that the people who worked for Mulroney despised the people who voted for him. Those voters soon noticed and reciprocated the dislike. Some of the angriest of them joined together in 1986 to form a "Reform" party led by Preston Manning, the son of a long-serving premier of Alberta, Canada's most conservative province.

Manning was an unlikely rebel: mild mannered, well read, unfailingly courteous, and surprisingly non-ideological. As Manning saw it, politicians could not control events. Their job was to "wait for the wave"—the unexpected event that would propel them into power. In the 1990s, Manning's wave crested. Canada was hit in 1992 by the worst and most prolonged economic downturn since the Great Depression. At almost exactly the same moment, Mulroney reacted to the failure of an earlier round of constitutional deal-making by proposing to bundle the Quebec terms that westerners merely disliked with a battery of radical-left constitutional amendments that they positively hated.

The party mutinied. Mulroney resigned. His successor Kim Campbell, Canada's first woman prime minister, had neither the time nor the inclination to woo the right. On Election Night 1993, the Tories suffered what may rank as the worst debacle in the history of parliamentary democracy. They emerged from the election with only 2 of 301 seats in the federal Parliament.

But the Tories weren't quite dead. Their share of the popular vote had very nearly equalled Reform's. The Tories had important institutional strengths too: access to Canada's corporate donors, still-healthy provincial parties, and a vague but widespread sense that there was something abnormal about the 1993 result, that sooner or later the Conservatives must return to power.

It could have happened. But the Conservatives succumbed to their old vice of nominating inept leaders, two

Stockwell Day

AP/Wide World Photos

of them in a row: a Quebecker named Jean Charest and then their present leader, Joe Clark, a party leader of the 1970s who briefly served as prime minister but lost power when he failed to do a head count of his supporters before a crucial budget vote. Clark is a legendary figure in Canada, a politician combining the charm of Michael Dukakis, the judgment of George McGovern, and the sure electoral instincts of Barry Goldwater. Under Charest, the Conservatives raised their seat count in the 1997 election to 20, leaving them still only the fifth largest party in Parliament. Since 1998, Clark has driven four of those 20 M.P.s to quit the party, offended the powerful Conservative premiers of Ontario and Alberta, and virtually single-handedly alienated all the party's top donors.

But Reform had troubles of its own. It had raised its seat total from 52 to 60 in 1997—not enough. More ominously, it actually won fewer votes than before in the all-powerful province of Ontario. Part of its problem was that it smelled too strongly of hay to appeal to urban voters. But at least as important was the unwillingness of many Ontario Conservatives to forgive Preston Manning his role in destroying the Mulroney government.

So Manning took a tremendous risk. He talked his party into sinking itself into a new "united alternative" in which old Tories would be welcome. He acceded to the retirement of the Reform name in favor of Canadian Alliance, as Reform's old emphasis on constitutional change gave way to economic issues like a 17 percent flat tax. He even put the new party's leadership up for grabs on equal terms, stepping down himself from all the advantages of incumbency. His plan succeeded—much better than he'd ever intended.

Two candidates challenged Manning: Day and also an Ontarian named Tom Long, an important figure in the provincial Conservative party. Long's candidacy pulled almost all that remained of the Tory party structure in Canada's biggest province into the Alliance. Long finished third in the first round of balloting on June 24, and endorsed Manning. But Long couldn't deliver his followers, most of whom appear to have switched to Day.

That seemed surprising: After all, Day was routinely accused of "homophobia" and worse in the national media. But Canadians are less liberal than their leaders like to think (a *National Post* poll taken just before the second round vote on July 8 found that 54 percent of Canadians reacted positively to a leader who called himself a "social conservative"). Probably more important to the Ontario Tories: Day was unimplicated in the 1993 defeat. He always took care to speak respectfully of Brian Mulroney—recently he went so far as to reveal that he had quietly met with Mul-

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roney at the beginning of his campaign. The division of the Canadian right may have begun as an ideological struggle, but it ended as a blood feud. Now that each side has claimed its man, the feud can end.

Which is not to say that the end of the feud doesn't have ideological implications. If Mulroney was Nixon, then Day is Reagan—same electoral coalition, but with the leadership coming from the right-hand edge of the party rather than the left. Like Reagan too, Day is the first leader of his party not to suffer from a sneaking feeling that the other side has the better of the argument.

Day's new party still trails the Liberals in the polls: 44 percent to 25 percent with 12 percent still grimly attached to the Clark Conservatives. But Day has momentum and excitement on his side. The 66-year-old prime minister Jean Chrétien has already had to quell one mutiny by caucus members frightened by his ever more blatant disengagement and testiness (asked recently about Canada's high taxes, he urged those who didn't like paying them to emigrate to the United States). The Canadian economy meanwhile is faring poorly. The recession ended in 1995, but the average Canadian still earns less after taxes than he did in 1989—and back in 1989 his dollars were worth almost 90 U.S. cents. Today they buy only 67 cents.

Those are not, in short, good reelection conditions. Without much of an economic story to tell, and with their traditional base in Quebec still voting for the nationalist Bloc Quebecois, expect the Liberals to try to beat Day with unjustified charges of extremism, anti-Semitism, you-name-it-ism. Joe Clark will surely chime in with an "And that goes double from me!" Will it hurt? Well, for the 12 or 18 months until the next election, it sure won't be fun to be Stockwell Day. But he's going to keep smiling. And those old enough to remember the politics of the 1980s do notice that when the camera lights turn on, the way his skin glints looks a lot like Teflon. ♦

The Media War on Star Wars

Where never is heard an encouraging word.

BY SEAN VINCK

PETER JENNINGS on ABC's *World News Tonight* calls missile defense a system "that has never been proven to work and may never work." The *Los Angeles Times* suggests missile defense will put the country at "greater risk of attack." ABC's Ted Koppel says support for missile defense is a "very hard-line position." NBC's Jim Miklaszewski questions whether such a system is "worth it" in light of its possible "threat to U.S.-Russia relations." *Newsweek* gives missile defense a down arrow after a snafu in a July 7 test, saying it's "time to deep-six this megabillion-dollar fiasco." And the *New York Times*? It's as passionately opposed now to missile defense, not only in its opinion pieces but also in its news stories, as it has been ever since President Reagan first announced his Strategic Defense Initiative in 1983.

Missile defense joins abortion, gay rights, and Elián González as an issue that is covered with palpable bias by the mainstream media. With missile defense, it's liberal bias with a twist. Normally the press doesn't buy into a political group's labeling of itself or its foes. "Pro-lifers" become "anti-abortion activists," while abortion advocates are "supporters of abortion rights." With missile defense, the media have adopted the term used by critics: Star Wars.

The most striking feature of the coverage of the missile defense issue is its hostility. Positive stories about the need for defending the country against missile attack are virtually non-existent. Story after story dwells on arguments used by critics. A missile defense will violate the ABM treaty. It won't work because it can't tell decoys from real missiles. It will undermine American relations with other countries. It will spark a new arms race.

Journalists love to link missile defense to failed military defenses of the past. William J. Broad of the *New York Times* started an article with this: "For ages, nations have dreamed of building invulnerable shields to protect themselves from hostile forces. There was the Great Wall and the Maginot line and, in America, the safeguard antimissile system and 'Star Wars.'" James Kitfield of *National Journal* wrote: "The yearning for a defensive shield to protect man from his enemies stretches back through recorded history to Greek mythology and the aegis cloak worn by Zeus as a symbol of power and imperviousness." All attempts, however, were "eventually foiled by agility or subterfuge, or overwhelmed by the advances in offensive power."

Not surprisingly, the media seized on the failure of the interceptor test as new grounds for doubting whether any missile defense system could ever work. Michael R. Gordon of the *New York Times* said the United States "has no choice . . . for years to come" but to rely on the threat of retaliation by offensive missiles to deter attacks. David Martin of CBS, the best of the Pentagon reporters on TV, played up the importance of the old Trident II missile that failed in the test. "If a supposedly reliable component can fail, how can you count on all the cutting-edge technology that is going to be a part of missile defense?" Martin asked on *CBS Sunday Morning*.

Sean Vinck is an intern at THE WEEKLY STANDARD.

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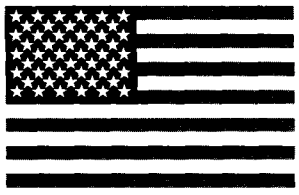
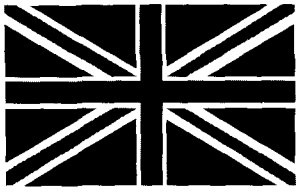


Findings of the British Police Foundation Concerning Reform of Marijuana Laws[1]



"Our conclusion is that the present law on cannabis produces more harm than it prevents. It is very expensive of the time and resources of the criminal justice system and especially of the police. It inevitably bears more heavily on young people in the streets of inner cities, who are also more likely to be from minority ethnic communities, and as such is inimical to police-community relations. It criminalizes large numbers of otherwise law-abiding, mainly young, people to the detriment of their futures. It has become a proxy for the control of public order; and it inhibits accurate education about the relative risks of different drugs including the risks of cannabis itself. Weighing these costs against the harms of cannabis, we are convinced that a better balance is needed and would be achieved if our recommendations were implemented.

Under our proposals, the normal sanctions for offenses of cannabis possession and cultivation for personal use would be out-of-court disposals, including informal warnings, statutory cautions or a fixed fine on the model of the Scottish fiscal fine. Prosecution would be the exception, and only then would a conviction result in a criminal record. We understand that if the sanctions for cannabis possession and cultivation, both in the law and its enforcement, were to be substantially reduced there would be a risk that more people would use it. But the international evidence does not suggest that this is inevitable or even likely. Given the current widespread availability and use of cannabis, we judge that more would be gained in terms of credibility, respect for the law and the police, and accurate education messages than would be lost in potential damage to public and individual health by the control regime which we recommend. We also believe that our proposed regime would promote the targeting of enforcement resources on those drugs and activities which cause the greatest harm in line with the objectives of the national strategy. It would also accord with public perceptions of where policing priorities should lie."

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[1]"Drugs and the Law: Report of the Independent Inquiry into the Misuse of Drugs Act of 1971." The Police Foundation, Chairman: Viscountess Runciman DBE, April 4, 2000. The Police Foundation, based in London England, is a non-profit organization that promotes research, debate and publication to improve the efficiency and effectiveness of policing in the UK.

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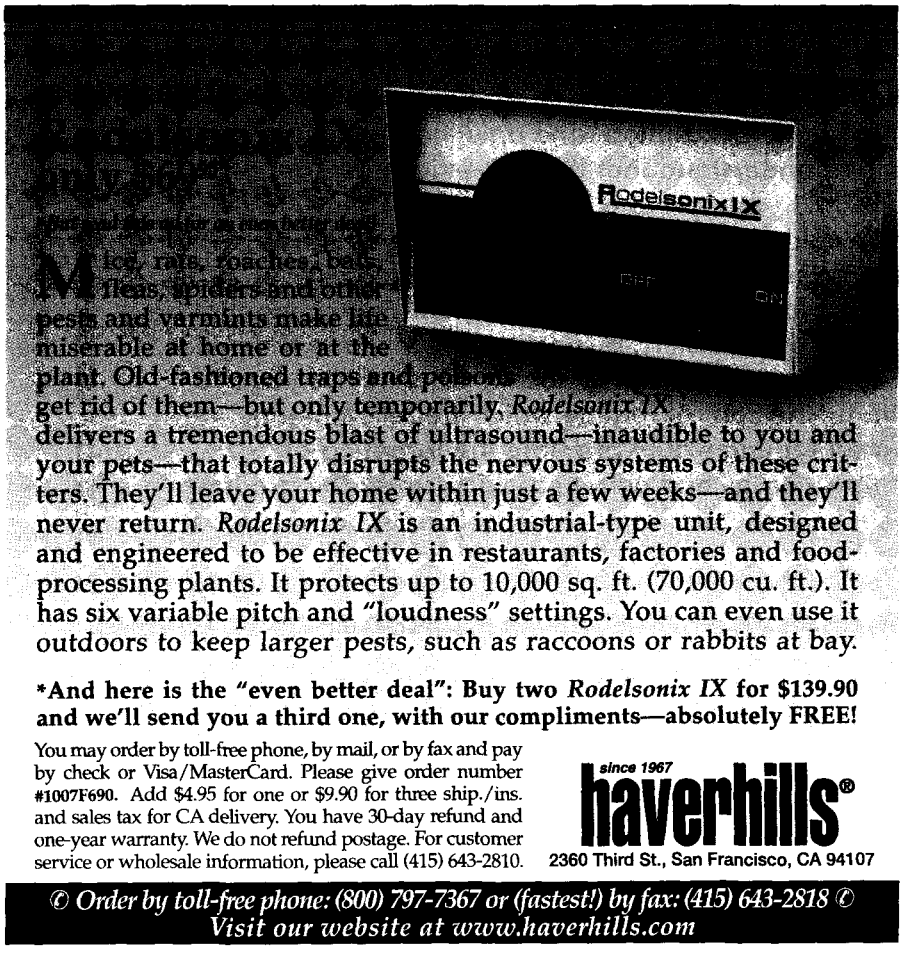
the weekly Standard

A month earlier, the *Washington Post* made a generally positive report on missile defense by a group of experts headed by retired Air Force general Larry Welch sound negative. Here's how the piece, by Roberto Suro and Thomas E. Ricks began: "A classified report by a Pentagon-appointed panel of experts raises numerous warning flags about the current plan for a missile defense shield. . . ." Many paragraphs later was buried the good news: "Overall, the new report gives the Pentagon's missile defense developer a 'B plus grade for work done thus far,' and it grants an overall blessing to the plans drawn up for future testing and evaluation, a senior official said."

The *Post* twinned its coverage of the Welch report with another negative story, this one claiming a missile shield would undermine arms control: "The United States' campaign to develop a national missile defense system has intensified doubts abroad about its commitment to arms control, which in turn is undermining a key U.S. foreign policy goal: strengthening safeguards against the spread of nuclear weapons," wrote William Drozdiak. This touches on a principal source of the media's bias against missile defenses. Reporters have a remarkable reverence for the philosophy of arms control. Thus, their reports never question conventional arms control thinking or ask whether missile defenses would be a better way to prevent nuclear war.

In particular, reporters writing about national security appear desperate to retain, unaltered, the ABM treaty. John J. Goldman of the *Los Angeles Times* wrote that "many nations, including Russia and China, object to the U.S. proposal to build a national missile defense system, which would require amendments to the Anti-Ballistic Missile Treaty, signed by the Soviet Union and the United States in 1972." What's rarely examined is whether the treaty still serves a true arms control purpose. Usually ignored is the fact that former secretary of state Henry Kissinger, the treaty's author, now opposes the ABM treaty and has called it a "relic."

Finally, there's *Time* magazine, which holds a special place in the coverage of missile defense. Deputy secretary of state Strobe Talbott was covering the White House for *Time* when Reagan unveiled SDI. Talbott was appalled, since the idea of a missile defense conflicted with his notion of arms control. For 17 years, *Time* has kept up a drumbeat of criticism. "The heart of Ronald Reagan's 1983 Star Wars program lives on, kept beating by a mix of election-year politicking, behind-the-scenes defense-industry puppeteering, and a fiercely committed group of conservative think tanks and antimissile-system advocates," Christopher John Farley of *Time* wrote. Times change, circumstances change, the science of missile defense changes. Media bias, at *Time* and elsewhere, never does. ♦



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Taking the Second Amendment Seriously

Finally, and for good reason, a gun control statute has been struck down as unconstitutional.

By Nelson Lund

Timothy Joe Emerson is a Texas physician who lawfully bought a pistol in 1997. About a year later, Emerson's wife filed for divorce and sought a temporary injunction containing 29 separate prohibitions, most of them aimed at protecting Mrs. Emerson's financial interests. The proposed order also prohibited various sorts of interference with the couple's child, and it forbade Emerson to threaten or injure his wife or to communicate with her in vulgar or indecent language.

At a hearing on whether to grant the injunction, the state divorce court judge explored the financial circumstances of the couple and decided on the amount of temporary child support Emerson should provide. In her testimony, Mrs. Emerson reported that her husband had threatened her new boyfriend but denied that Emerson had threatened her. The judge issued the injunction, but he made no findings that Emerson was likely to commit any of the 29 separate acts prohibited in the temporary restraining order, many of which were not alluded to in any way during the hearing.

Nothing in the story so far is unusual. It is apparently routine for Texas courts to issue such prophylactic restraining orders in divorce cases, without evidence that the acts prohibited in those orders would otherwise be likely to occur. The story became less commonplace when Mrs. Emerson subsequently accused her husband of brandishing the pistol, and federal prosecutors took up the case. A federal grand jury indicted Emerson in December 1998 for violating an obscure portion of the 1994 Violent Crime Control Act, which is better known for its prohibition of certain so-called assault weapons. The provision used against Emerson appears on its face to impose a ban on firearms possession by any person who is subject to a court order that prohibits him from using or threatening physical violence against an "intimate partner" or that partner's child.

This was too much for Judge Sam R. Cummings, a federal trial judge in Texas, who last year declared the indictment unconstitutional. Cummings reasoned that if the federal statute had been triggered by a court order based on a finding of danger to Mrs. Emerson or her child, forbidding Mr. Emerson to own a gun might be a reasonable regulation. But because the prosecution was based on a boilerplate order that was unsupported by any such finding, it violated Emerson's Second Amendment right to keep and bear arms.

Had this case concerned any other part of the Bill of Rights, Cummings's analysis would have bordered on the obvious. The law, for example, forbids us to libel other people. But this doesn't mean that anyone who has been officially told to refrain from breaking the libel laws can also be told to remain completely silent, or be barred from possessing a printing press. If it did, a legislature could simply outlaw speech, or printing presses, on the ground that this would help prevent libel. While this sort of sweeping prior restraint might be very effective in preventing libel, it would violate the First Amendment.

Judge Cummings thought that the same kind of analysis should apply to Emerson's case. The law forbids people to cause or threaten bodily injury to others. But how can people be deprived of their right to possess arms merely because they have been told to obey the law? If they could, it would seem to follow that Congress could choose to promote obedience to the laws against murder and assault by forbidding everyone to possess weapons. And the Second Amendment would then mean only that the right of the people to keep and bear arms shall not be infringed unless the government decides to infringe it.

Nelson Lund, a professor at George Mason University School of Law, has participated in the Emerson *case in an* amicus curiae *role.*

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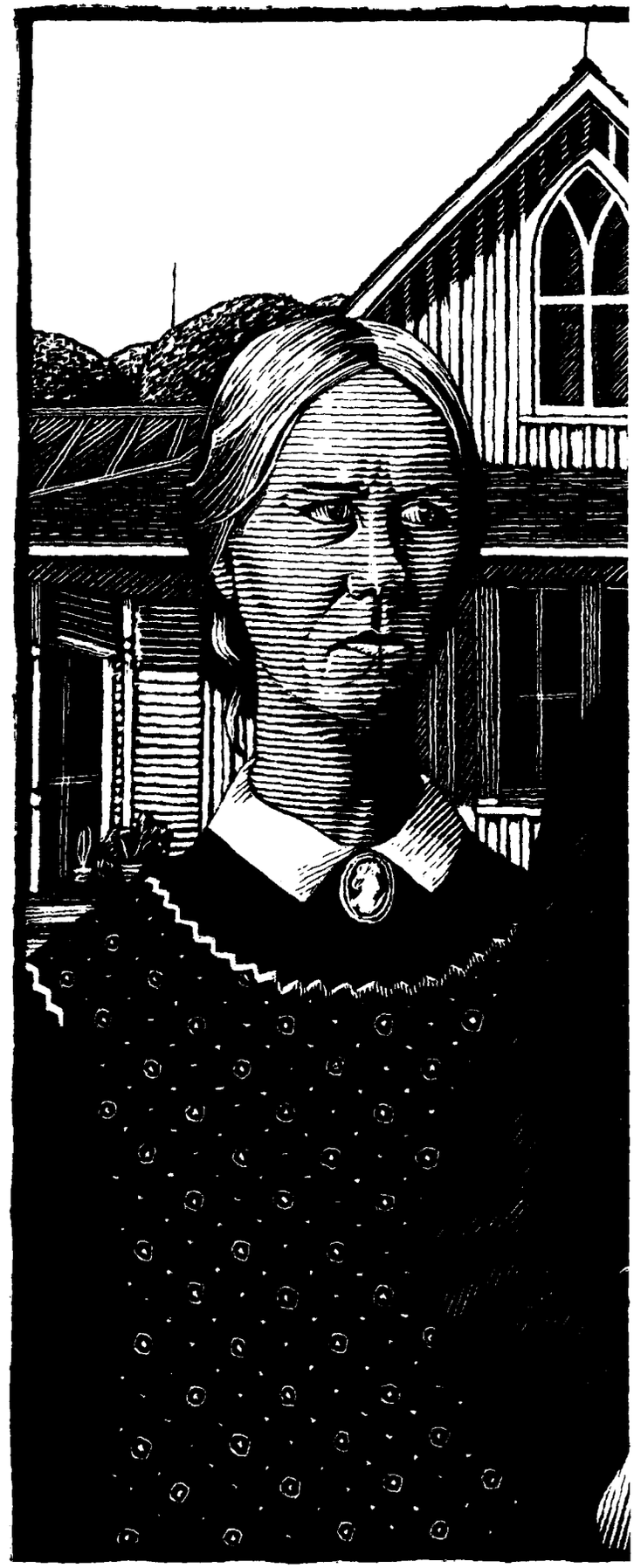
Despite the obvious logic in Cummings's opinion, his decision has created a stir, and rightly so. The federal courts had never before invalidated any gun control statute for violating the Second Amendment. What's more, almost every court of appeals in the country has concluded that this part of the Bill of Rights means nothing at all, or so close to nothing that it might as well not exist.

Cummings's decision, however, is not doomed to inevitable reversal. Unlike most lower courts, the Supreme Court has never decided to boot the Second Amendment out of the Constitution, and neither has the Fifth U.S. Circuit Court of Appeals (which covers Judge Cummings's northern Texas jurisdiction). Those two courts have decided only a handful of Second Amendment cases and always on narrow grounds. It is therefore possible that the long pattern of judicial hostility to the Second Amendment could soon be broken.

The Fifth Circuit heard oral arguments in the government's appeal of Cummings's decision on June 13. The session featured a number of humorous exchanges, including comments by the judges about their own personal arsenals, and an embarrassing display of ignorance by the government's lawyer about the statutory definition of the term "militia." But the most promising aspect of the argument was how little interest the judges showed in joining the many other courts that have treated the Second Amendment as a kind of enemy alien within the Bill of Rights.

Though it is always dangerous to predict what courts will do on the basis of judges' questions at oral argument, the following possibilities seem most likely. The court may simply avoid the Second Amendment issue by holding that the 1994 Violent Crime provision exceeds congressional authority under the Supreme Court's recent federalism decisions. Another way of avoiding serious Second Amendment questions would be to dismiss the indictment of Emerson on the ground that the federal statute includes an implied limitation to cases where there has been a judicial finding of dangerousness to the "intimate partner" or child. But it is also possible that the Fifth Circuit will conclude Cummings was right, and that the statute violates the Second Amendment.

If the court goes down this last road, the *Emerson* case could be headed for the Supreme Court. And whether in this case or some other, the Supreme Court will eventually have to decide whether the Second Amendment is going to remain in the Constitution. It is therefore worth understanding why expunging it would require a level of sophistry and willfulness on a par with such disastrous instances of high court usurpation as *Dred Scott* and *Roe v. Wade*.



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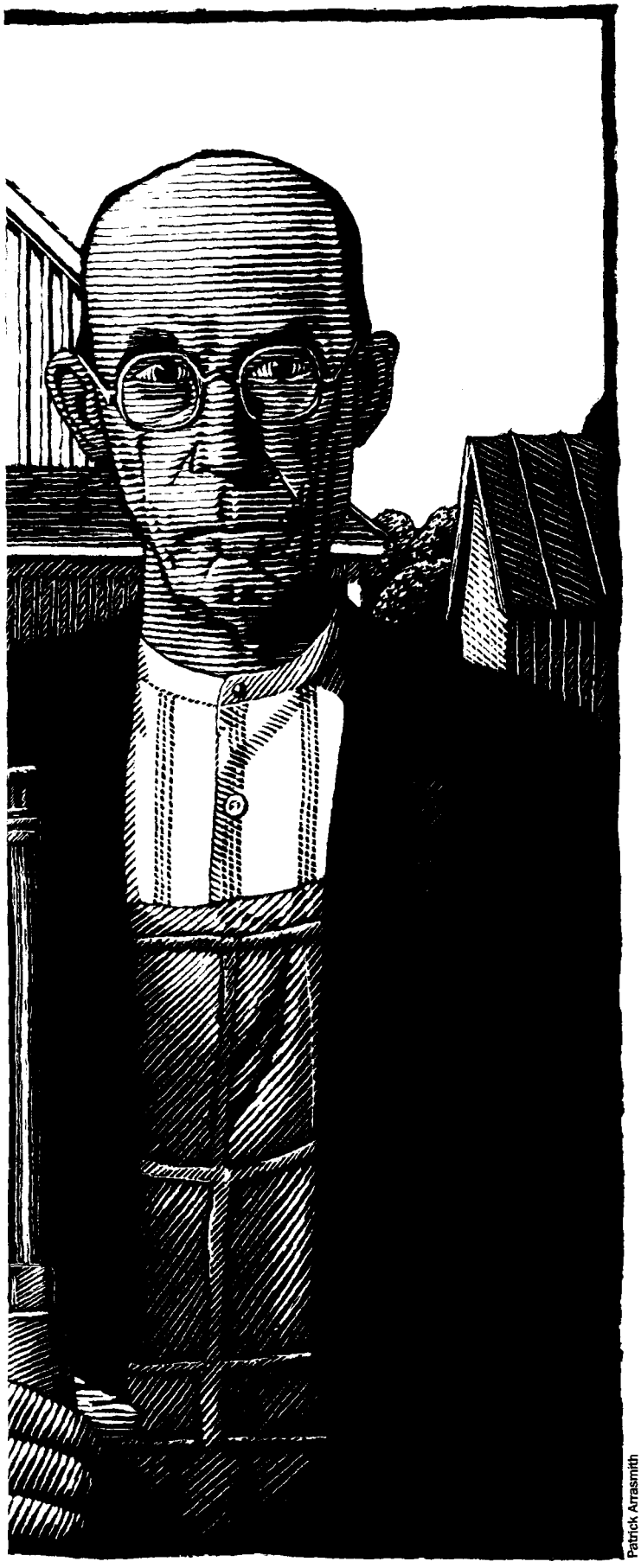

Patrick Arrasmith

For much of the twentieth century, there were two schools of thought about the meaning of the Second Amendment. Virtually the entire legal establishment, from the professoriate to most appeals courts, asserted that it protects only the right of state governments to maintain military organizations like the National Guard. On the other hand, people who read English in the normal way thought that it protects the right of individual citizens to keep and bear arms.

If the framers of the Second Amendment had simply provided that "the right of the people to keep and bear arms shall not be infringed," even a lawyer would have trouble denying that it creates an individual right like the other "rights of the people" described in the Bill of Rights. But that's not what they did. Instead, they appended an explanatory introduction, so that the constitutional text says: "A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

The introductory phrase, however, does not change the meaning of the operative clause, and the Second Amendment means exactly what it would have meant had the preface been omitted. To see why that's so, and also why such an explanatory preface makes perfect sense, one needs to grasp two interrelated arguments. The first is based on the text of the Second Amendment and its relationship with other clauses in the Constitution. The second focuses on the immediate political problem that the preface was meant to address.

Let's start with the text of the Second Amendment. The operative clause protects a "right of the people," which is exactly the same terminology used in the First Amendment and the Fourth Amendment. Those two provisions indubitably protect individual (not states') rights, and so does the Second Amendment.

What the introductory phrase tells us is that this individual right is protected, at least in part, because doing so will foster a well-regulated militia. Before asking how it can do that, it's worth emphasizing what the Second Amendment does *not* say.

It emphatically does not protect the right of the *militia* to keep and bear arms. The people and the militia were and are two very different entities. Nor does the Second Amendment say that the people's right to arms is *sufficient* to establish a well-regulated militia, or that a well-regulated militia is *sufficient* for the security of a free state.

Nor does the Second Amendment say that the right of the people to keep and bear arms is protected *only to the extent* that such a right fosters a well-regulated militia or the security of a free state.

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In order to see why the introductory phrase cannot be interpreted as qualifying the right of the people to keep and bear arms, one need only consider the Patent and Copyright Clause, which is the Constitution's nearest grammatical cousin to the Second Amendment. That clause gives Congress the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Nobody thinks the prefatory language limits the reach of the granted power. It doesn't mean Congress must stop granting copyrights to racists or pornographers or Luddites, who are hardly promoting the progress of science. And yet the grammatical case for this interpretation would be much stronger than the legal establishment's reading of the Second Amendment's militia phrase as a limitation on the right to arms. Moreover, state constitutions from the founding period were littered with explanatory prefaces like the one in the Second Amendment, which were never construed to change the meaning of the operative clauses to which they were appended.

How, then, can the individual right to keep and bear arms contribute to fostering a well-regulated militia? To answer that question, we have to look at the original Constitution, which allocates responsibility for governing the militia. It tells us five things that are crucially important in understanding the Second Amendment.

First, *the militia is not the army*. The Constitution has separate provisions for each and it never confuses or blends the two.

Second, *Congress is given almost plenary authority over the army and the militia alike.* The only powers reserved to the states are the rights to appoint militia officers and to train the militia according to rules prescribed by Congress.

Third, *the Constitution nowhere defines the militia.* There is abundant historical evidence that the founding generation saw a fundamental difference between armies (usually composed of professional soldiers) and the militia (consisting of civilians temporarily summoned to meet public emergencies). But there is also abundant evidence that the founding generation was acutely aware the militia could be converted into the functional equivalent of an army. There had been examples of this in England, and we have an example today in the National Guard.

Fourth, *the Constitution imposes no duties whatsoever on the federal government, either with respect to armies or with respect to the militia.* Congress is not required to organize the militia in any particular way, or to keep it well regulated, or indeed to do anything at all to secure its existence.

Fifth, *the Constitution expressly prohibits the states from keeping troops without the consent of Congress.*

Turning back to the Second Amendment with these facts in mind, it becomes apparent why the Second Amendment cannot possibly have been a states' rights amendment—meant to constitutionalize a right of *states* to keep up military organizations like the National Guard. That theory implies that the Second Amendment silently repealed or amended two separate provisions of the Constitution: the clause giving the federal government virtually complete authority over the militia, and the clause forbidding the states to keep troops without the consent of Congress. These provisions have allowed the federal government essentially to eliminate the state militias as independent military forces by turning them into adjuncts of the federal army through the National Guard system. Under the states' rights theory of the Second Amendment, this takeover of the National Guard would represent an unconstitutional usurpation of state power by Washington.

But of course the Second Amendment is not about states' rights, and the relationship between its introductory phrase and its operative clause turns out to be deceptively simple. A well-regulated militia is not one that is heavily regulated, but rather one that is not inappropriately regulated. Recall that the original Constitution gives Congress almost unlimited authority to regulate the militia. As the operative clause of the Second Amendment makes perfectly clear, its purpose is simply to forbid one kind of inappropriate regulation (among the infinite possible regulations) that Congress might be tempted to enact. What is that one kind of inappropriate regulation? *Disarming the citizenry from among whom any true militia must be constituted.*

Congress is permitted to do many things that harm the militia, and to omit many things that are necessary for a well-regulated militia. Congress may pervert the militia into the functional equivalent of an army, or even deprive it completely of any meaningful existence. A lot of those things have in fact been done, and many members of the founding generation would have strongly disapproved. But the original Constitution allowed it, and the Second Amendment did not purport to interfere with congressional latitude to regulate the militia. The one and only thing the Second Amendment does is expressly forbid a particular, and particularly extravagant, extension of Congress's authority over the militia. Whatever the federal government does or fails to do about the militia, the Second Amendment forbids it from disarming citizens under the pretense of regulating the militia.

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The Second Amendment was a response to a more specific and difficult political problem than most other provisions in the Bill of Rights. Because of historical memories going back to the period before the Glorious Revolution, and because of actual memories of abuses by British troops in the colonies, the founding generation was marked by a strong and widespread aversion to peacetime standing armies. The militia system was treasured by many people because the existence of a well-regulated militia, composed of civilians readily available for emergency military service, tended to deprive the government of an excuse for maintaining standing armies.

Not everyone shared this sentiment. Alexander Hamilton, for one, complained that the militia system violated the economic principle of division of labor. More important, even those who treasured the militia recognized that it was fragile. And the reason it was fragile was the same reason that made Hamilton think it was stupid: Citizens were always going to resist unpaid military training, and governments were always going to be strongly tempted to acquire more professional (and therefore more efficient and tractable) forces.

This led to a dilemma at the Constitutional Convention. Experience during the Revolutionary War had demonstrated that militia forces could not be relied on for national defense. The decision was therefore made to give the federal government almost unfettered authority to establish armies, including peacetime standing armies. But that decision created a threat to liberty, especially in light of the fact that the Convention also decided to forbid the states from establishing armies of their own without the consent of Congress.

One solution might have been to require Congress to establish and maintain a well-disciplined militia, but it was impossible for the Constitution to define a well-regulated or well-disciplined militia with the requisite precision and detail. Another solution might have been to give the states control over the militia and forbid Congress from interfering. The Anti-Federalists favored this solution, but it was also unworkable. Collective action and coordination problems would have resulted in an absence of uniformity in training, equipment, and command; no really effective fighting force could have been created.

The conundrum could not in fact be solved, and the Convention did not purport to solve it. Neither does the Second Amendment. What the Second Amendment does is ameliorate the problem slightly. Faced with a choice between a standing army and a well-regulated militia, the federal government might well prefer to establish a standing army and allow the militia to fall into desuetude. But faced with the choice between a well-trained militia and an armed but undisciplined citizenry, the government might prefer to keep the militia in good order. In this way, and in this way alone, the Second Amendment could contribute to fostering a well-regulated militia.

This interpretation of the Second Amendment is consistent with all the historical evidence. For instance, in the ratification debates about the original Constitution, Anti-Federalists argued that federal control over the militia would take away from the states their principal means of defense against federal oppression and usurpation—a serious danger by their reading of European history.

James Madison responded that such fears of federal oppression were overblown, in part because the new government would be structured differently from European governments. He then pointed to another, and decisive, difference between America and Europe: The American people were armed and would therefore be almost impossible to subdue through military force, even if you imagined that the federal government would try to use its armies to do so.

In this debate, the Federalists and Anti-Federalists shared two assumptions: that the proposed new Constitution gave the federal government almost total legal authority over the army and the militia; and that the federal government should not have any authority to disarm the citizenry.

The disagreement was only over the narrower question of how effective armed civilians could be in protecting liberty. Anti-Federalists regarded the armed citizenry, and hence the Second Amendment itself, as a rather trivial safeguard against federal oppression. But the very inadequacy (from an Anti-Federalist point of view) of the protection that an armed citizenry could offer against federal oppression also rendered the Second Amendment noncontroversial. It could not satisfy the Anti-Federalist desire to preserve the military superiority of the states over the federal government. That would have been very controversial, and nobody so much as hinted that the Second Amendment created or protected any sort of right belonging to state governments.

As a political gesture to the Anti-Federalists, the Second Amendment's express recognition of the right to arms was something of a sop. But the provision was easily accepted because *everyone* agreed that the federal government should not have the power to infringe the right of the people to keep and bear arms, any more than it should have the power to abridge the freedom of speech or prohibit the free exercise of religion.

Where does this leave us? It leaves us with a great many

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interesting and important questions about the meaning of the Second Amendment. But before those questions can be addressed properly, we have to free ourselves from the notion that has for decades held sway in the courts and among the legal establishment—that the constitutional right to keep and bear arms is essentially tied up with military service, or that it was meant to create a right of states to maintain a military counterweight against the federal government.

What the courts should do, starting with the *Emerson* case, is subject federal gun control laws to the same close scrutiny they apply to other statutes that are challenged under the Bill of Rights. That undertaking will leave room for many debates in which reasonable minds can differ, as is true with other provisions of the Bill of Rights. But anarchy will not descend upon the land.

Indeed, most existing federal regulations of gun ownership would probably survive such scrutiny because they are sufficiently well tailored to achieve sufficiently important government purposes. It is not constitutionally problematic, for instance, to limit the Second Amendment rights of exceptionally dangerous people, such as violent felons and adjudicated mental defectives.

Even the statute at issue in *Emerson* could be applied constitutionally in cases where a court has reasonably found that someone represents a real threat to the physical safety of his family. Just as a divorce court judge may forbid an abusive husband to continue subjecting his wife to hateful late-night telephone tirades, so a judge should be able to deprive a genuinely threatening man of the right to acquire convenient tools for murdering his wife.

But the *Emerson* case itself is different. An injunction was issued with no evidence that the defendant had ever threatened his wife, and no court had ever found that he was a danger to her. By its literal terms, the 1994 Violent Crime Control statute purports to impose gun controls on citizens like Emerson who have never been convicted of a crime and who have never been shown to be any more dangerous than anyone else. If these individuals can lose their Second Amendment rights merely because a divorce court judge has entered a routine order instructing them to obey the law, it becomes difficult to imagine that any civilian disarmament statute could violate the Constitution.

The courts have no legitimate authority to adopt an "interpretation" of the Second Amendment that renders it nugatory. Nor should one suppose that this provision of the Constitution has lost its value because we lack the founding generation's intense fear of standing armies and federal oppression. The Second Amendment makes no sharp distinction between the use of guns to resist oppression by the government and their use to resist oppression from which the government fails to protect us.

The purpose of the Second Amendment is to protect the fundamental right of self-defense, and thereby to protect the interests of a free political community. For the Framers, those interests were at stake whether the threat took the form of a foreign invasion, a political coup, marauding Indians, or a simple highwayman. It was for this reason natural that the Constitution authorized the militia to be used "to execute the laws of the Union, suppress insurrections and repel invasions."

Even if one supposes that civilians will never need arms to resist political oppression, the Second Amendment will thus continue to serve an important constitutional purpose. The government has neither the obligation nor the ability to offer its citizens reliable protection from murder, rape, and robbery. The police almost always arrive at the scene of a crime well after the crime has been committed, and no one would want to have police officers stationed everywhere that crime might occur. These fundamental aspects of American society have *not* changed since the eighteenth century, and an armed citizenry continues to have great value both to those who choose to be armed and to their fellow citizens.

In fact, armed resistance to criminal violence is very common. It occurs on the order of two million times each year, and in most of these cases a mere display of the weapon scares off the attacker. Furthermore, armed resistance is much more often successful than passive acquiescence in preventing injuries to the victim, especially when a woman is the target of an attack.

An armed citizenry is also an extremely powerful *deterrent* to violent crime. Burglary rates of occupied dwellings, for example, are much lower in America than in England. Similarly, states adopting laws that allow civilians to carry concealed weapons have seen significant drops in violent crime rates. The huge number of crimes that are invisibly deterred by America's armed citizenry constitute an important private and public benefit. Congress has no more right to take away this benefit than it does to deprive us of the benefits of a free press or the free exercise of religion. It is true that these freedoms, like the right to arms, have costs as well as benefits. But it is also true that in all three cases the framers of our Constitution rightly calculated that the benefits outweigh the costs. It is time for the courts to stop substituting ill-considered policy preferences for the legally binding wisdom embodied in the Constitution. ♦

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Defying Proposition 209

California voters outlawed discrimination in public employment, education, and contracting. At least they thought they did.

By Roger Clegg and Glynn Custred

On November 5, 1996, voters in California passed Proposition 209, a statewide ballot initiative that ended affirmative action preferences there. The initiative amended the state constitution to provide: "The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."

The wording of Proposition 209 closely tracks the language of the 1964 Civil Rights Act, reaffirming the intent of that landmark federal legislation. But the grievance industry, also known as the civil rights establishment, and the academic intelligentsia fought hard against the ballot initiative. Immediately after its passage, a variety of groups challenged its constitutionality in court, arguing that it amounted to illegal discrimination for the state to ban, uh, discrimination. They lost. But for them, the battle had only begun.

Jesse Jackson called on California officials to "defy, challenge, resist" the law. He bused in supporters and led an anti-209 march across the Golden Gate Bridge. The vice mayor of Oakland promised to "chip away" at the law until its effectiveness was negated. Across the bay, when San Francisco mayor Willie Brown was asked on local television whether he would obey the law, he answered flatly, "No." In fact, the city expanded its municipal contracting preferences. A Los Angeles County affirmative action officer told *USA Today*, "I am very defiant when it comes to something that had no business being voted on."

Connie Rice of the NAACP Legal Defense Fund disingenuously argued that the word "preference" in Proposition 209 is ambiguous, and vowed to litigate the issue. The U.S. Department of Education's Office for Civil Rights began investigating a complaint filed by civil rights groups that California's new colorblind admissions to state universities violated federal antidiscrimination laws. The investigation is still underway, according to the office's head, Norma Cantu. The *Chico Enterprise-Record* concluded that supporters of preferences were determined to "force opponents to go to court to implement changes."

Now, nearly four years after the voters endorsed Proposition 209, resistance continues. Consider, for example, two recent incidents involving faculty hiring in the California state university system.

At California State University, Hayward, Dean Michael Good on April 20 declared the search for a professor of African-American history "unsuccessful" after the search committee and the chairman of the history department unanimously recommended that the job be offered to a white woman. The action prompted a remarkable memorandum signed by every tenured member of the history faculty criticizing Good for caving in to pressure from outside the department to appoint only a black to that position.

The memo said Dean Good had been swayed by "inappropriate and likely unlawful outside interference" from two faculty members in other departments: Michael Clark, chairman of the department of ethnic studies, and Terry Jones of the department of sociology and social services. Clark had made vague and unsubstantiated allegations that "someone on the search committee" had "a racial agenda." When the history department chairman said he was concerned that the recommended hire not be made a scapegoat, Jones, according to the memo, responded: "We won't go after her, but we'll certainly go after you and your depart-

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ment, and if she's stupid enough to come here, then anything that happens should be expected." Jones added, "It's just business."

Richard A. Garcia—the chairman of the search committee and a former chairman of the department of ethnic studies—wrote a letter to the campus newspaper stating that Good had all but admitted bending to the demand that only a black be hired. Good "came to a meeting of the history department to explain his position," wrote Garcia. "At the meeting he acknowledged that he was 'under extreme pressure' from Jones and Clark and others who had visited him and suggested that any candidate chosen who was not Black would not be acceptable." Garcia accused Jones and Clark of "urging black power through the politics of skin color rather than informed opinion and real academic fairness." Another history professor, Jose A. Fernandez, agreed. He wrote, "I am ashamed of this institution."

Dean Good asserted that there had been "procedural irregularities" in the search, but the department pointed out that the same process had been followed for over a decade, and in nine separate instances, without any objection from the administration. The department accused the dean of "selective enforcement" of the rules and called his claim a "pretext."

The history department at Hayward is, incidentally, not exactly a seedbed of Jim Crowism. The memo points out that it has hired only one white male since 1971, and indeed the department now has only two non-Hispanic white males. Likewise, according to the memo, the recommended candidate

> is a remarkably dedicated and energetic young woman who graduated from a predominantly minority high school, worked her way through college as well as a demanding Ph.D program, and has extensive teaching experience with minority students at the K-12 and university levels. . . . She is, in other words, strikingly similar in background and aspiration to many of Hayward's students. Her Ph.D mentor is an outstanding African American historian . . . who has verbally described her as a "gem."

It was for this reason, according to professor Richard Orsi, senior faculty member in the history department, that there was not a second choice for the position at issue. There was only one choice, he said, namely, the candidate who was rejected because of the color of her skin.

When asked about racial considerations in hiring, Norma Rees, president of the Hayward campus, told the student newspaper that Proposition 209 didn't apply to her institution because it received federal money and was thus governed only by federal law. But the school is required to obey both federal and state laws unless it is impossible to do both, and no federal law requires the blatant discrimination suffered by the woman recommended for the opening in the history department. Indeed, the school has violated

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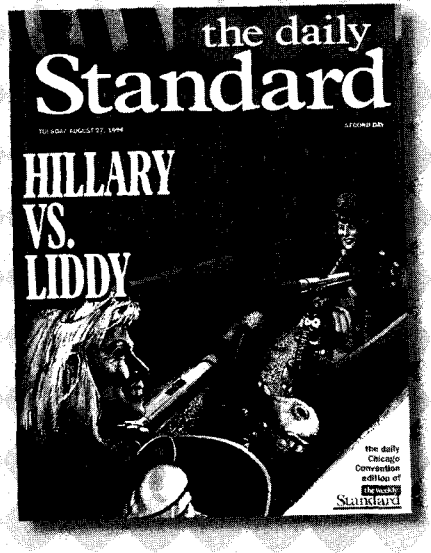

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both federal and state laws.

The second incident involves another history department, this one at California State University, Chico. Last year, the department was looking for someone to teach "nineteenth-century American technology, science, and medicine." The field was narrowed to eight candidates, three women and five men. Only the women were interviewed, and the job was offered to one of them.

Charles Geshekter, the second most senior faculty member in the department, reviewed the files and found that two of the women interviewed were clearly unsuitable, while three and probably four of the male candidates were "strong." In a March 5, 1999, memorandum to the department's personnel committee, he concluded: "Facially, there appears to have been a desire on the part of the Personnel Committee to hire only women."

The Personnel Committee told Geshekter in an e-mail that his request for a written response was "excessive." Geshekter did, however, succeed in extracting an interesting document from Janet Saunders, director of employment practices and affirmative action at Chico. Titled "Utilization Report for 1998-99" for the history department, it lists the number of female and minority faculty members and concludes, "HIRING GOAL FOR NEXT HIRE: FEMALE." Similarly, Chico's "Revised Recruitment Guidelines" are steeped in implicit and explicit demands that race, ethnicity, and sex permeate the faculty hiring process from beginning to end. They are dated August 25, 1998—nearly two years after Proposition 209 was passed.

Hayward and Chico are not alone. A recent proposal for faculty recruitment policy at the University of California, Davis, urges: "Failure on the part of departments and other units to make vigorous efforts to diversify the faculty should result in the withholding of additional [positions] and additional recruitment-related discretionary funds until the dean is sure that future recruitments will be effective."

Proposition 209 prohibits racial and ethnic preferences not only in public employment and education—both of which bans are violated when a state university discriminates in faculty hiring—but also in public contracting. And here, too, the bureaucracies are resisting the law.

The city of San Jose, for instance, has been sued for requiring bidders on its construction contracts either (1) to send "solicitation letters" to at least four minority- or female-owned firms for each trade area identified in the project, follow up on the letters by contacting the firms, and negotiate in good faith and not "unjustifiably" reject a bid from them, or (2) to list a specified number of such firms as accepted participants in the bid. As an appellate court ruled in striking down this scheme, it is "a municipal program designed to increase participation by minority and women businesses in public construction projects."

The case involving San Jose's contracting practices is now pending before the California state supreme court. The city is being supported by the state attorney general and the U.S. Justice Department's civil rights division. A friend-of-the-court brief filed by the latter argues that, if Proposition 209 means what it says, then it violates federal law. This is because, according to the Clinton administration, federal law requires discrimination.

California's Democratic governor, Gray Davis, has played a surprisingly positive role in opposing the emasculation of Proposition 209. On July 28, 1999, he vetoed Senate Bill 44, which would have endorsed San Jose's sort of targeted outreach in education and employment. Davis had opposed Proposition 209, but when it passed, he recognized that the people had spoken and that it had become part of the state constitution. He concluded that Senate Bill 44 could not be squared with the language of the ballot initiative. Davis also appears to be unhappy with the recommendations he has received from a 26-member task force on minority outreach, which reportedly are inconsistent with the letter and spirit of Proposition 209. He has so far declined to release the study.

Davis's refusal to toe the preference line is good evidence that quotas remain politically unpopular. And rightly so. The young woman passed over by the dean at Hayward illuminates the human costs of racial discrimination. And such costs are ubiquitous. Skin color, ancestry, and sex influence hiring and contracting not just once in a while, as a tie-breaker. Instead, such discrimination is pervasive.

The aftermath of Proposition 209, in other words, confirms how necessary it was. The academic and political bureaucracies that favor preferences will never voluntarily abandon them, and the "civil rights" lobby still has enough clout to intimidate most politicians (although the lobby's intellectual and moral bankruptcy is more and more an open secret).

What is discouraging is the extent to which the opponents of Proposition 209 have made good on their promise to ignore the law. Their contempt for the rule of law means that those who secured the legal elimination of preferences based on race, ethnicity, and sex in California cannot yet declare victory.

Proposition 209, then, is a tool, not a panacea. It remains up to the people—especially those in the trenches who see the law being violated—to insist that it be followed. This will require lawsuits, confrontation, and a willingness to be called names. But it's the only way to prevail. ♦

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"Bogus Bill"

Charles A. Ponzi got in to see Bill. He thought he could. They had things in common.

"What can I do for you?" asked Bill.

"It's what I can do for you," replied Ponzi. "You're a bigger bogus man than me. On that score, of late you 'doth protest too much.' "

"Meaning?"

"We bogus boys kid ourselves."

"How?"

"You were a draft dodger. Still, you go to Arlington National Cemetery. You place a wreath on the tomb of 'The Unknowns'. Those poor guys, like you, could have run away. They didn't. They died for their country. What do you think they think of you as their Commander in Chief? Come on, Bill."

"Well."

"Take Monica. Take all those other girls. No sexual relations you say. But there's Monica's apparel. It shows. And with the other girls, other things show. Who are you kidding, Bill?"

"And."

"Hillary, poor girl. You married her. You promised to love and honor her. So do we all. But did you? If you didn't, did she know womanizing was kind of a sickness with you?" asked Ponzi.

"Go on."

"I will. You make me look not so bad," Ponzi told him. "Smoke pot but don't inhale. You'd have suffocated. Do you think people are that dumb, Bill?"

"Anything else?"

"The sweet, innocent, little Cuban kid, Elián. You compassionate, Bill? You'd never pick on a defenseless child. How do you explain one of your guys looking down the barrel of a machine gun pointed right in the face of the terrified kid? Really, Bill."

"Then."

"Bill, your bogus is contagious. Poor Hillary so confused she couldn't remember where she left those important documents they found right under her nose. Or all about how she made a killing in commodities when, in a manner of speaking, she didn't know a pear from a peach. Who's kidding whom?"

"So."

"You're worried about your legacy, Bill. Maybe you shouldn't be," Ponzi continued. "There's not a dry eye in the house except for me. You make us bogus boys look great. You know why?"

"Not really."

"Because," Ponzi concluded. "Until you came along, I was only a minor leaguer. Now, I'm in the big leagues, thanks to you. Whenever the fans think of you, they'll think of me too. We're the two biggest, brightest stars in the bogus Hall of Fame. Thanks a bunch, Bill."

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Immodest Ambition

Modest Musorgsky's achievement

By Algis Valiunas

Repin's portrait of Musorgsky. Archivo Iconografico, S.A. / CORBIS.

Music and drink have long been companions; some awfully good tunes have celebrated the pleasures of getting gloriously hammered. The title character of Mozart's *Don Giovanni* announces himself ready to go all night in his champagne aria, "Finch'an dal vino," which tears along like a raging erotic fire and ends with the villain's boasting that by morning he will have added ten women to his list of sexual conquests. The most striking melody from Mascagni's *Cavalleria Rusticana* is Turiddu's drinking song, "Viva il vino spumeggiante" ("Here's to sparkling wine"). "Libiamo" ("Let's drink") in Verdi's *La Traviata* has the heady lilt of party talk—when everyone is slightly more tipsy than he realizes.

So there is a lot to be said for drinking music. Musicians who drink, however, are another thing, as the alcoholic squalor that beset Modest Musorgsky makes clear. Musorgsky (1839-1881) composed the supreme Russian opera, *Boris Godunov*. But he spent a significant part of his life laid out cold by drink, until it laid him out for good at the age of forty-two.

History has made an exemplary figure of Musorgsky, a questionable honor. Seized upon by contemporary critics—and later by Soviet and post-Soviet interpreters, too—his life and his music have been bent to fit whatever fable of the Russian artist-soul has happened to be in vogue. Now Caryl Emerson, a professor of Slavic literature at Princeton, has written a sensible biography that cuts through the misconception encasing Musorgsky. *The Life of Musorgsky*, one of ten volumes published so far in the Cambridge University Press series of "musical lives," is a physically slender but intellectually weighty book, especially rich in detail about the cultural background of the composer's ruinous life and remarkable art.

The Life of Musorgsky
by Caryl Emerson
Cambridge University Press, 216 pp., $44.95

Musorgsky was born into a noble family of somewhat dubious lineage: His grandmother was a serf who bore her master a bastard son, then married another serf. Later, as a widow, she returned to her master, finally marrying him when their son, Pyotr, Musorgsky's father, was twenty-two. Soviet critics were fond of crediting Musorgsky's peasant blood for his distinctively Russian musical genius, in particular his sensitivity to native speech and his defiance of Western harmonics. Stalinist genetics aside, Emerson suggests that Musorgsky's grandmother, who helped to raise the boy, acquainted him with local folk traditions, including the music he would later recall as formative: "festivities, work songs, the Russian Orthodox chants intoned in local church services."

In 1849, Pyotr Musorgsky sent Modest and his elder brother, Filaret, to boarding school in St. Petersburg; three years there, four more in a military academy, and Musorgsky became an officer in the Imperial Guards. He liked the way he looked in the uniform and cultivated a manner of formidable ele-

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gance. But the soldiering life, which in peacetime consisted largely of cards, horses, whores, and duels, did not suit him, and he resigned in 1858.

Musorgsky lived off a modest income from inherited property until 1861. But the emancipation of the serfs bit deeply into the estate's profits, and he was compelled to find a day job in the imperial bureaucracy—"to feed and pamper my delicate body." First in the Central Engineering Authority and then in the forestry department, Musorgsky worked as a clerk for fifteen years. The jobs were long on tedium and short on pay.

Musorgsky never established a proper adult household. After the army, he lived with his mother, who attended to the practical matters that were too much for the feckless young man. Nikolai Chernyshevsky's popular novel *What is to be Done?*, an idyllic depiction of life in a commune, inspired Musorgsky to set up housekeeping with five male companions. That arrangement lasted for two years, until Filaret Musorgsky, worried that his brother was drinking too much, convinced Modest to move in with him and his wife. Modest stayed for three years. Subsequently, Musorgsky was to live with Nikolai Rimsky-Korsakov, until his fellow composer left to get married, and then with Count Arseny Golenishchev-Kutuzov, until the poet also left to get married.

To get married himself apparently never occurred to Musorgsky. In 1861 he confessed to a friend that he had at some point narrowly avoided hurtling into depravity—and "if you must know, there was a woman involved." But all other evidence is that Musorgsky preferred to remain uninvolved. The quite lovely and talented Aleksandra Purgold, who sang Musorgsky's songs about as well as they could be sung, did everything she knew to get Musorgsky to fall in love with her. She never stood a chance. His passion was considerable, but it was directed to music, male friendship, and alcohol.

Music was always the best thing in his life. Writing his own entry for a musical dictionary in 1880, he set down nothing of his childhood except his precocious skill at the piano: "The acquaintance with the spirit of folk-life was the main impulse of musical improvisations before he had learned even the rudimentary rules of piano-playing." Taught first by his mother, he was playing Liszt at seven and by nine was performing for gatherings at his parents' house. Until he was eighteen, however, Musorgsky's brilliant musical gift was unchanneled. Then he was introduced to Milii Balakirev, and the meeting was a revelation: It was thrilling to discover such a creature as a Russian composer.

Balakirev, who was only three years older than Musorgsky but a far more accomplished musician, became mentor to the young officer and to three other embryonic notables: Cesar Cui, Alexander Borodin, and Rimsky-Korsakov, known as The Five, or *moguchaya kuchka*, "the mighty little heap." For several years, the *kuchkisty* met to play piano reductions of works by contemporary European masters, with the four junior members submitting their own compositions for Balakirev's perusal. Impressing the master was not easy, and Musorgsky had an especially rough time. In 1863 Balakirev savaged his protégé in a letter to Vladimir Stasov: "Musorgsky is practically an idiot."

In 1867, Musorgsky made the inevitable break from Balakirev—and proved himself not an idiot at all. Balakirev insisted that Musorgsky make significant changes to *Witches* (now a classical staple under the title *Night on Bald Mountain*). Balakirev's Russian Musical Society would not perform the work without these changes. But Musorgsky refused, confident the piece was better than Balakirev thought. They remained friends, but Musorgsky's apprenticeship was over.

Henceforth Musorgsky knew what he wanted to do, and it did not trouble him that he was venturing into uncharted territory. At a time when St. Petersburg was agog for the hummable tunes of Italian opera, The Five were out to create unmistakably Russian music. So Musorgsky was not alone, but he was much bolder than the rest. Writing vocal music that captured not only the characteristic intonations of Russian speech but also the idiosyncrasies of individuals became his consuming task. He wrote Rimsky-Korsakov in 1868: "Whatever speech I hear, no matter who is speaking (or what the person is speaking about), my brain immediately sets to working out a musical exposition for this speech."

Early on, Musorgsky tried his hand at composing an *opera dialogué* based on Gogol's play *Marriage* (in which a bachelor decides to get married, wins a lady's hand with the help of a friend, and then jumps out a window to get away). "I'll say just this one thing," Musorgsky wrote. "If one completely renounces operatic tradition and visualizes musical dialogue on the stage as just ordinary conversation, then *Marriage* is an opera." It was an opera that he never finished.

Nor did he finish an opera based on Flaubert's *Salammbô*. Musorgsky was still relatively unseasoned, when he began work on *Boris Godunov* in 1868. *Boris*, it turned out, would be the only opera he would see through to the end. He completed a version in 1869, but the Imperial Theater Directorate turned it down because it lacked a prima donna role. Musorgsky made the additions and revised a good deal else besides. When the opera had its premiere in 1874, it was a great popular success.

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Photos: CORBIS.

Moscow, in an 1870s print.

The composer wrote his own libretto, drawing on Pushkin's play. Musorgsky's Boris, like Pushkin's, is as much a creature of folklore as of fact. The historical Boris Godunov was brother-in-law and principal adviser of the ineffectual Tsar Fyodor, son of Ivan the Terrible. When Fyodor died without an heir in 1598, Boris was elected to the throne and reigned secure for a time. But then one tribulation after another struck Russia—flood, famine, plague—and it was widely feared that God's wrath was due to the fact that Boris did not rule by right of blood. An ambitious monastic novice named Grigory Otrepiev soon announced that he was in fact Ivan the Terrible's youngest son, the Tsarevich Dmitry, thought to have died in 1591 at the age of nine. The pretender Otrepiev claimed that he had, instead, gone into hiding after Boris tried to murder him.

Otrepiev gathered support in Poland and among the Russian peasantry, and marched on Moscow. While he was on his way, in 1605, Boris died, and Russia acclaimed "Dmitry" as its rightful tsar and savior. But Otrepiev's brief reign was to prove even more disastrous than Boris's. Famine, invasion, and civil war ravaged Russia, and the era became known as the Time of Troubles.

In Musorgsky's opera, Boris is responsible for ordering the murder of the child Dmitry, and his tormented conscience is the death of him. From Boris's initial appearance, amid the magnificence of his coronation ceremony, guilt attends him. The first words he utters are so out of place that they can be understood only as a brief soliloquy: His soul is full of sadness and foreboding, he sings, before he adopts the appropriate public tone, asks God to bless his reign, and invites all to a feast. This relation between private feeling and public face, more complicated than mere disparity, lies at the heart of *Boris Godunov*. For the man guilty of a child's murder is himself the father of two children for whom he has dynastic ambitions.

In a scene set in the tsar's private rooms, his son, Fyodor, and the children's nurse try to cheer up his daughter Xenia, whose fiancé has recently died. By turns the Tsar is jocular with the nurse, comforting to Xenia, and proud of Fyodor's studious interest in a map of the imperial domain. But then Xenia and the nurse depart, and Boris immediately launches into an agonized lament: His days bring no happiness, and during sleepless nights the dead Dmitry's ghost appears, begging for mercy. Boris does his best to keep up appearances, but he is never far from remorseful breakdown. As he talks with a nobleman who covets the throne, his composure slips; he starts chattering about the visions that haunt him and bursts into hysterical laughter. When Boris is left alone, the dead child comes into the room, and terror floors the tsar. (Boris's most famous performer, the bass Fyodor Chaliapin, was known for singing this passage while cowering under a desk.)

In the third and final scene in which Boris appears, all public pretense is stripped away. Boris staggers into the noblemen's council chamber, shouting at an apparition that only he can see. His guilt proves fatal, and he dies in full view of the horrified boyars.

Boris is one of the great operatic characters, but the opera is not his alone. As James Billington writes, "Musorgsky makes the Russian people rather than the figure of Boris the hero of his opera." Some of the most dramatically effective music in the opera is written for the chorus. The opening and closing scenes feature the crowd. Outside a Moscow monastery where the boyars are choosing the tsar, "the people" have gathered. At a policeman's order, they kneel and begin a mournful song that swells into desperate wailing, and the sheer concussive power of the sound carries an imposing moral

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authority. But that authority disintegrates as individual voices emerge. Asked why they are bawling, someone answers that he has no idea. One chorister is told to shut up; the altos respond, "Look who's giving orders"—and then the tenors tell the altos to shut up. So long as the chorus sings with one voice, each member carries a burden heavier than his own fate. But the moment each person speaks for himself, they all appear petty, foolish, insignificant.

By the Kromy Forest scene, which concludes the opera (and is not to be found in Pushkin), the crowd is no longer "the people." It is merely a chorus of "vagrants" who congeal into a mob. Joining Otrepiev's insurrection, this mob tortures, burns, and kills to music that captures the savage merriment of revolutionary vengeance. At the opera's end, the stage is left to a solitary Holy Fool, who has been robbed of his only kopeck by a gang of children. In a quavering tenor, he sings of an approaching darkness: "Woe, woe to Russia, weep, / weep, you Russian people, / you starving people."

So the Russian people have much to endure, but they are not the hero of the opera. The hero of *Boris Godunov* is the truth. For Musorgsky truth does not blaze out as a revelation, but emerges as the growing awareness of the untrue. Untruth abounds in the opera. When "Dmitry" refuses to drink with him, the monk Varlaam sings, "The drunken man sees paradise." Varlaam might seem a harmless drunkard, but the rollicking bloodthirstiness of his song about the slaughter of Turks—perhaps the catchiest tune in the opera—hints at what he will be revealed to be: a brutal ringleader of a brutal mob. One regime founded on a lie follows another.

Musorgsky's is an astringent aesthetic: Beauty is not truth, and truth can be a far cry from beauty. Some of the roles in *Boris* require a vocal coarseness, even a talent for croaking or growling, quite unlike the sounds made in most nineteenth-century opera. Musorgsky is more than capable of writing music of lyric voluptuousness, but when he does so it is with the suggestion that such beauty is specious, beguiling.

In *Boris* the passage of greatest conventional beauty is the manipulative Polish princess Marina Mniszek's twisted profession of love for Otrepiev. Luxuriantly melodious, the music sounds like Tchaikovsky. Musorgsky was cool to Tchaikovsky. At a party in 1872, with the senior composer in attendance, Musorgsky performed his song cycle *The Nursery* and the Inn scene from *Boris*. Tchaikovsky snoozed through

Chaliapin as Boris Godunov in 1912.

both. Soon afterward Musorgsky wrote, "I've had to spend all these days in the company of worshippers of absolute musical beauty. And I have experienced a strange *feeling of emptiness* in conversation with them." Gorgeous music in the hands of a Tchaikovsky can conceal a void within the composer himself—where truth ought to be. In Musorgsky's scores, such beauty is a form of mockery; his most ravishing music is reserved as accompaniment to the compromised, not to say corrupt, emotions.

If untruth appears in music of extravagant lushness, the truth is deliberately unadorned. The purest character in *Boris* is the monk Pimen, whom we first see as he works all night on a chronicle of Russia. As he writes, a simple sixteenth-note figure sounds, reiterated over and over by violins; it embodies the monk's tireless concentration and ardent honesty. Even the truth can have unintended consequences, however. It is Pimen who tells Otrepiev, his cellmate, about the Tsarevich Dmitry; Otrepiev takes things from there. And it is Pimen who recounts for Boris how a blind man has been miraculously cured by Dmitry's ghost; Boris clutches his chest and crumples, dying, at the tale.

Boris Godunov is the cornerstone of Musorgsky's reputation, but he did compose a fragment of another opera about seventeenth-century Russia, *Khovanshchina*. Musorgsky left only a piano-vocal score, and with scenes missing. Rimsky-Korsakov, Igor Stravinsky, and Dmitry Shostakovich all completed full reconstructions, and *Khovanshchina* has its place as an occasional delicacy in major opera houses. Better known is *Pictures at an Exhibition*, program music for piano; Maurice Ravel scored it for orchestra, and this version is now more popular than Musorgsky's original.

But apart from *Boris*, Musorgsky's greatest work is the relatively little known *Songs and Dances of Death*, his setting for voice and piano of four poems by his friend Golenishchev-Kutuzov. As Emerson's new biography points out, the principal human emotion portrayed and provoked by this song cycle is terror.

Death, so Musorgsky imagines, feels quite differently about the matter; the songs detail the pleasure Death takes in conducting business. In "Trepak," Death cajoles a drunken peasant to lie down and rest in the middle of a blizzard. At first, Death addresses the man with a tripping gaiety; the tempo quickens, and the voice takes on a taunting edge. This sinister sportiveness is more fearsome than straightforward destruction: When Death sounds like she's en-

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joying herself (in three of the songs, Death is a woman), you know you're in trouble. As the piano plays a swirling figure that evokes the wind-whipped snow, the voice maintains a menacing calm, singing the suavest of dirges. At length, Death convinces the drunk that it is a beautiful summer's day. The man stretches out on the ground, and life gradually leaks out of him.

"Lullaby" renders the sweet solicitude of Death, who promises to end the suffering of a sick child as its mother cannot. Death's soft coaxing is punctuated by occasional sharp stabs from the piano; the mother gets ever more desperate, but Death never raises her voice. Gently insistent, Death sings as a refrain the phrase *Bayushki, bayu, bayu* ("Hush child, hush, hush"), the first word on a descending perfect fourth, the second a repetition, and the last a descending minor sixth. The effect is as chilling as the famous piano refrain in Schubert's setting of Goethe's "Erlkönig"—which is as hair-raising as music gets.

In "Serenade," Death wins his way into the bed of a young woman with consumption, assuring her that he is more desirable than anything life has to offer. The song begins with a depiction of a spring night, and life seems to have a fighting chance. But when Death makes his move, he is irresistible, the voice advancing relentlessly, the rhythmically jaunty piano suggesting a funeral march. Tenderness does creep into the voice, but the song ends on a violently triumphant octave leap upward. It is a seduction that can hardly be distinguished from rape. Even more brazen and ferocious is Death's victory song in "The Field Marshal." Here Death, again a woman, reviews her troops, the fallen who will be hers forever.

Death ruined Musorgsky while he was still alive. The deaths of loved ones, the losses that everyone must endure, he found unendurable. As Emerson writes, "All accounts agree that alongside their graves, Musorgsky sobbed like a child, took to drink, blamed himself for inattentiveness or lack of love, eventually created some piece of music where each could be remembered and revived." But his art failed to contain his suffering.

Musorgsky's last years were an agony of fleabag lodgings, deepening loneliness, and the sort of daily drinking that is really a ceaseless pounding at death's door. A pair of strokes in quick succession landed him in the hospital. As he was recovering, the story goes, he paid an orderly to bring him a bottle of cognac in honor of his forty-second birthday. The bottle was drained in a hurry—and paralyzed the weakened composer. He died in extreme pain. Reportedly, his last words were, "It's all over. Oh, how miserable I am!"

Soviet biographers were especially eager to absolve Musorgsky of responsibility for his desolate end, but Emerson does not let him off so easily: "The old scapegoats—the Imperial Theatre Directorate, the tsarist bureaucracy, the need to make a living, a rapacious brother, the Guards regiment that 'forced him to drink'—have become thin and unwarranted pretexts."

Musorgsky was both creature and self-creator; he made himself what he was, but given what he had to work with, it is possible he could not have done any better. And for all the wreckage and waste of his life, he did bring into being some splendid works of art—strange growths, *fleurs du mal* perhaps, but of an enduring beauty. ♦

Witnesses to Tyranny

Poland loses two brave souls. BY ANNE APPLEBAUM

Earlier this month, on July 4 and July 6, two great men died. Both were survivors. Both lived through some of the worst tragedies of the twentieth century, yet neither lost his humanity in the process. Both bore witness to those catastrophes, using clear, lucid prose, yet neither was prone to hysteria or to blame. Both belatedly received recognition in their native Poland, but neither attained international acclaim. Poland's particular postwar fate, and their own fates, worked against it.

One of them was a writer. In 1940, at the age of twenty-one, Gustav Herling-Grudzinski was already a published journalist and critic. But in that year, Red Army troops captured him on the border, trying to escape from the slice of eastern Poland occupied by the Soviet Union. He was jailed, interrogated, and deported to a concentration camp near Archangel, in the Russian North. He spent two years in the camp, watching some of his compatriots die, watching others survive, sometimes at a terrible price. Finally discharged in 1942 (the Polish-Russian truce of that year mandated the release of all Polish prisoners from Soviet camps), Herling-Grudzinski marched out of Russia with a division of the Polish army. Traveling via Persia and Palestine, he wound up in Italy. Seeing no reason to return to a Soviet-dominated postwar Poland, he eventually settled in Naples, in a tiny apartment crammed with books, through which black-clad women flitted like birds. He made his living as an émigré writer, working for the Paris-based Polish journal *Kultura*, occasionally writing for the Italian press. He returned to Poland for the first time only in 1991, after the collapse of the Communist regime.

The other man was a musician. In 1940, at the age of twenty-nine, Wladyslaw Szpilman was already a pianist and composer of popular songs, famous enough to be recognized on the street in Warsaw. But in that year, Warsaw's German occupiers closed the gates of the city's Jewish ghetto. Szpilman remained inside, along with his family. None except he survived. Szpilman was

A journalist based in Warsaw and London, Anne Applebaum is writing a history of Soviet concentration camps.

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saved by his fame and popularity: A well-wisher, one of the Jewish ghetto policemen, pulled him out of the crowd awaiting the train to Treblinka. Later, he was smuggled out of the ghetto by Polish friends, who hid him in a series of attics and cellars. After the failure of the Warsaw uprising, he found himself virtually alone in the city. Living on what food he could scavenge from the ruined buildings, drinking water frozen in abandoned bathtubs, Szpilman was close to starvation when he was discovered by a German officer. Rather than shooting him, the officer, Captain Hosenfeld, listened to Szpilman play Chopin on one of the untuned pianos in the city wreckage. For several weeks thereafter, Hosenfeld brought him food and blankets, enabling him to survive.

After the war, Szpilman remained in Poland, continuing to play and compose, becoming musical director of Polish radio, traveling abroad with a popular quintet, but never emigrating. He lived in a small but sunny Warsaw townhouse, whose mahogany furniture, parquet floors, and silver-framed photographs placed atop the piano gave no hint of the horrors their owner once witnessed.

Both men bore witness to the events they survived. Herling-Grudzinski described his camp experiences in an extraordinary book, translated into English as *A World Apart*. Anticipating Solzhenitsyn by twenty years, Herling-Grudzinski explored daily life in the Soviet camps and the delicate question of what it took to survive them. He described women selling themselves for scraps of food; a man secretly pouring boiling water on his arm to escape the certain death of winter work in the forests; the wheeling and dealing he himself did in order to stay alive; the effects of Soviet propaganda on the mentality of both Russian guards and Russian prisoners.

All the while he insisted that it was possible to maintain some human morality, even in that wholly immoral world. Published in England in 1951—prefaced by Bertrand Russell and praised by Albert Camus—*A World Apart* never won wide renown in the

PAP / Pecold

Gustav Herling-Grudzinski

West. It was considered too biased and too "anti-Soviet" to be taken seriously. Nevertheless, printed by an underground press, it had an impact in Poland little short of revolutionary. Last week, in the obituary published on the front page of the newspaper he edits, the left-wing Polish dissident Adam Michnik wrote that reading *A World Apart* at the age of fifteen had been a "shock": "All of the Communists' propaganda was reduced to nothing. I understood that every day, in school, in books, in the newspapers, they were lying to me."

Wladyslaw Szpilman also described his wartime experiences, in the only

PAP / Kwiatkowski

Wladyslaw Szpilman

book he ever wrote. Translated into English as *The Pianist*, Szpilman's memoir is a straightforward, almost emotionless account of life in the ghetto, his escape, and his experiences in wartime Warsaw. It is also a book devoid of the desire for vengeance. Along with his straightforward portrait of Captain Hosenfeld, Szpilman depicts good Jews and bad Jews, Poles who helped him and Poles who cheated him. Ideology, nationality, and religion, he told me when I met him, had nothing to do with anyone's wartime behavior: "One of the Poles who helped me first told me, 'I was an anti-Semite, but not anymore.' Then he went on to risk his life by hiding me."

Although published in 1945, *The Pianist* had only a small print run and was not reprinted: Within a few years after the war's end, Poland's Communist authorities had grown touchier about the publication of a book that had a German hero and contained flattering descriptions of the wartime, anti-Communist Polish underground. Szpilman tried once or twice to have the book reprinted, but he didn't push. He was more interested in his music, didn't consider himself a writer, didn't want to be forced to leave the city and the country he loved, and, most of all, had no interest in political involvement. (Three times he refused to join the Communist party.) Only the efforts of his son, who lives in Germany, ensured that the book was published there three years ago. It became a German best-seller, and was republished in Britain in 1999.

The proximity of Gustav Herling-Grudzinski's death at eighty-one and Wladyslaw Szpilman's at eighty-nine doesn't mean the men themselves had much in common. Both were Polish Jews, but one was political, the other not; one an émigré, the other not; one a writer, the other a musician. Even *The Pianist* and *A World Apart* can't really be compared: Their themes and styles and subjects are too different, the horrors they describe are of distinct orders. In the end, they shared only one thing: a deep, unpremeditated desire to pass on the truth. ♦

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Cruising for a Bruising

The life and times of Conor Cruise O'Brien.

BY ARNOLD BEICHMAN

Almost four decades ago, in the aftermath of the Belgian Congo crisis, the pseudonymous Peter Simple of the *London Daily Telegraph* published a parody of the United Nations. Simple transformed New York's U.N. headquarters into the "Bar of Public Opinion," an East Side "rum joint" run by "a gloomy Swede—Dag the Drag" (Hammarskjöld). Simple made the delegates a bunch of unruly, brawling drunkards.

And then Simple had a "mad fighting Irishman" burst in with a great roar: "Bejabers! And is there any of youse gossoons would be afther a rale foight?"

It was "Conor the Cruiser," Simple wrote in 1966, "a bit of a Bolshie if you ask me, always in some scrape or other, always ready for a glass or a girl, always ready with a tall story—he had Paddy's gift of the gab, you know, full of blarney, and the prince of good fellows to boot."

In that one paragraph you have the young Conor Cruise O'Brien, now in his sedentary eighties, but once a storm petrel ready to lead a U.N. army against the Katanga secessionists (remember them?) or fling darts via the *New York Review of Books* against Norman Podhoretz for being a neoconservative.

A research fellow at the Hoover Institution, Arnold Beichman is editor of the volume CNN's Cold War Documentary: Issues and Controversy.

Conor the Cruiser was always spoiling for a "rale foight," whether in his native Ireland, or the Congo, Britain, New York City, Ghana, Paris, India. And, by and large, always foighting in a self-defined good cause or for some cloudy moral principle.

Memoir
My Life and Themes
by Conor Cruise O'Brien
Cooper Square, 460 pp., $30

I don't think there has ever in modern times been anybody quite like O'Brien: Irish writer, statesman, diplomat, polemicist, editor, professor, playwright, scholar, U.N. functionary, historian, legislator, civil servant, cabinet minister and, above all, unflagging liberal. In recent years, he has made a heroic try, call it a "tall story," to turn even Edmund Burke into a liberal icon. And while it isn't really fair to call him "a bit of a Bolshie," O'Brien has spent a good part of his life—as his latest book, *Memoir: My Life and Themes*, inadvertently makes clear—attempting to turn genuine radicals into liberals, too.

For instance: O'Brien ignores the dodgy political behavior in 1977 of the Irish statesman Sean MacBride, son of Maud Gonne. O'Brien tells us that MacBride accepted the Lenin Peace Prize—period. That's it—not another word about a "prize" awarded by a police state that had swept the peoples of Russia and Central Europe into its malevolent jurisdiction. (Among others who received the Lenin Peace Prize was Fidel Castro in 1961.)

Would O'Brien have been so calm had, say, an Irish notable accepted something called the "Hitler Peace Prize"?

As vice chancellor of the University of Ghana, faced with a vacancy in the physics department, O'Brien hired Alan Nunn May, a confessed Soviet spy who had served seven years in a British jail. We are told that Nunn May's qualifications as a teacher were excellent. And so again the question: Would O'Brien have hired a Nazi physicist, or a South African scientist who believed in apartheid, or an Irish academic who, during the Troubles, had been an informer against the IRA? Rather innocently and *en passant*, he points out that at the time of Nunn May's espionage, Russia was "then allied to Britain." Oh, an extenuating circumstance, eh? Just like those defenders of Alger Hiss who thought it relevant that he didn't do it for the money. Political stumping like this calls to mind George Orwell's line: "The sin of nearly all left-wingers from 1933 onwards is that they have wanted to be anti-Fascist without being anti-totalitarian."

Sometimes what the memoirist omits is more interesting than what he includes. That is the great weakness of *Memoir: My Life and Themes*; O'Brien's earlier writings are far more interesting than his present longueurs. Take his sprightly 1994 lecture on politics as one of "the performing arts," for example. There, O'Brien derided the "professional movie actor [who] recently played the part of President of the United States in the White House itself for a run of two full terms." So much for Ronald Reagan and bad "showbiz." "Good showbiz," O'Brien argued, "can have a strong influence on democratic politics as witness Roosevelt's fireside chats and Kennedy's 'Camelot.'"

This was crude, to be sure. Yet it is cruder still that in O'Brien's present memoir, there isn't a single word about Reagan nor about the epochal fall of the Soviet Union and its meaning. O'Brien prefers to vent at great length about another president, Thomas Jefferson, whom he regards as one of the great, malevolent phonies in American history: "If there is a racist revival in America in the next century, Jefferson will be the central hero of that revival."

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In *Memoir: My Life and Themes*, there are numbing pages about Ulster and what ought to be done about it (his recommendations seem to have been overrun by events), and about the ins and outs of Irish politics. But then there are also pages that sparkle with the kind of Irish storytelling that reminded me of a little known novelist named George Birmingham (if you can find it, read *Spanish Gold*). There are some marvelous anecdotes like the one about the Irish ambassador to France who dared to speak French without knowing the difference between *baiser* the noun and *baiser* the verb. (The distinction cannot be discussed in a family magazine.)

O'Brien is one of those fabulously talented Irish characters who make the breed unique. He almost makes John Stuart Mill seem to get it right: "Precisely because the tyranny of opinion is such as to make eccentricity a reproach, it is desirable, in order to break through that tyranny, that people should be eccentric. Eccentricity has always abounded when and where strength of character has abounded." ♦

Not So Scary Movie

Spoof is back. BY JOHN PODHORETZ

The horror parody *Scary Movie* has proved a staggering box-office success, grossing $42 million in its first weekend. That's more than twice what it cost to make, and this box-office bonanza makes it certain we are in for a dozen movies like it over the next two years—which is to say, scene-by-scene remakes of recent box-office successes played for laughs.

Scary Movie is a replica of *Scream*, a 1996 horror comedy that poked knowing fun at the conventions of the modern teenage sex-and-murder genre even as it scared the pants off its audience. What's troubling about the whole concept is how unfunny and amateurish *Scary Movie* is, with maybe three decent laughs in its ninety minutes and a lot of scenes of people standing around until director Keenen Ivory Wayans stages the next obvious and crude joke. (Wayans's own parents, devout Jehovah's Witnesses, were so offended by *Scary Movie* they actually walked out of the screening.)

Scary Movie's contempt for its audience was masked by a clever trailer, and so audiences came in droves. And now we're really in for it, because its success will encourage Hollywood to spatter the big screen with painfully uninspired comic takeoffs of hits like *The Matrix* in hopes of making big first-weekend money by luring teenagers in—before even these unenlightened audiences figure out they're being taken for a ride.

Scary Movie's lame technique of Xeroxing a better movie and then drawing mustaches and graffiti all over it is a sad indication of the decrepitude into which a delightful movie genre has fallen. It is almost twenty years to the week that three guys from Milwaukee (whose only previous Hollywood credit had been as the screenwriters of an amusing series of sketches called *The Kentucky Fried Movie*) made their first movie.

Two brothers, David and Jerry Zucker, and their childhood friend Jim Abrahams, bought the rights to a forgotten 1957 disaster movie called *Zero Hour* about a shell-shocked Korean War vet forced to land a passenger jet when the pilots take ill with food poisoning.

And then, with inspired invention, they turned around and converted *Zero Hour* into *Airplane!*—eighty-eight minutes of sheer cinematic bliss that may comprise, on a second-by-second basis, the funniest film ever made.

Airplane! is a piece of amazingly sustained silliness that can still manage to provoke gut-wrenching hilarity in those of us who have seen it twenty times on television. It has literally a thousand individual jokes and bits of shtick—some witty, some ridiculous, some really stupid, some in very bad taste, some as wholesome and sweet as a shaggy-dog story told by a five year-old.

But the rat-a-tat nature of its comedy wasn't the quality that made *Airplane!* unique. What set it apart from other contemporary parodies of overwrought movies from Hollywood's past was its utter lack of camp. Rather than exaggerate the already exaggerated conventions of the disaster movies they were spoofing, Abrahams and the Zucker brothers (who came to be known in Hollywood simply as "ZAZ") instead made light of the weird and self-important solemnity of middlebrow Hollywood entertainment.

Airplane! is a ceaseless compendium of pompous speeches, reductive Freudianism, tortured gazes between former lovers, and the behind-closed-doors breathlessness with which Hollywood supposedly took audiences behind the scenes of then-beloved American institutions like a big international airport and the Mayo Clinic (which is depicted in *Airplane!* as a doctor's office with rows and rows of mayonnaise jars on the walls and a heart ready for transplant bouncing on a desk like a Mexican jumping bean).

ZAZ populated *Airplane!* with second-rank actors who had starred in the manly-man television shows of the previous two decades—twisting their square-jawed excess of propriety in ways no one had ever thought of before. Peter Graves, the star of the original *Mission: Impossible*, is here a pilot with a cheerful and increasingly peculiar interest in the tastes of a sickeningly cute little boy. "This your first time you've ever seen a cockpit, Joey?" he asks the boy, who told him that gosh, no, this is the first time he's even been up in a plane—to which Graves

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Paramount / Everett Collection

Lloyd Bridges, Robert Stack, and Lee Terri in Airplane!

responds: "You ever see a grown man naked?" Later, he adds: "Joey, have you ever been in a Turkish prison?"

In *Airplane!* and several subsequent projects, ZAZ magically mutated a profoundly uninteresting lummox of a TV actor named Leslie Nielsen into one of the cinema's greatest clowns—a career alteration matched only by the 1930s saccharine boy tenor Dick Powell's transformation into a believably hard-boiled private detective ten years after his heyday in Busby Berkeley musicals. Playing an unflappable doctor tending to the sick passengers who made the mistake of choosing the fish dinner rather than the chicken, Nielsen tells the terrified ex-pilot that he must land the plane because the pilots are unconscious. "Surely you can't be serious!" the ex-pilot exclaims. "I am serious," Nielsen replies with unparalleled deadpan. "And don't call me Shirley."

ZAZ sought only to make a really funny movie, but the boys from Milwaukee had a significant effect on American show business. In its own modest way, *Airplane!* was revolutionary, for it not only put paid to the disaster movie but changed the face of comedy as well. The variety shows that had been among the leading staples of the home viewer's diet since the earliest days of television—from Sid Caesar to Carol Burnett to Sonny and Cher—had always relied on movie parodies as the centerpieces of their sketches. But *Airplane!* pulled it off so much better and with so much more attention to detail. It looked and sounded so much like the disaster movies it was spoofing, down to the musical score and even the look of the film stock, that it hammered the final nail in the coffin of a TV tradition long gone stale and obvious.

Airplane! also effectively crashed the stratospheric career of Mel Brooks, the Hollywood director who had made parodies his stock in trade with the mammoth box-office hits *Blazing Saddles*, *Young Frankenstein*, and *Silent Movie*. Brooks's humor was broad, in the hoary traditions of American burlesque, and could not hold a candle to the new and far more contemporary style.

ZAZ followed *Airplane!* with a charming amalgam of an Elvis movie and an escape-from-Communist-country thriller called *Top Secret!*, an underappreciated delight that features one of the greatest of one-liners: An East German woman tells an American that she has an uncle who once lived in the States, "but he was one of the lucky ones; he escaped in a balloon during the Jimmy Carter presidency."

Then, adapting a short-lived television series they had created called *Police Squad!*, they brought out another huge and hilarious box-office triumph called *The Naked Gun*. This time, instead of parodying disaster flicks, they took on the cop and detective shows of the 1960s like *Dragnet* and the innumerable series that always began with a booming voice declaring the program "A Quinn Martin Production." The star, again, was the crazily liberated Leslie Nielsen playing Frank Drebin, the dumbest and most mindlessly violent man ever to sport a badge.

Two more *Naked Gun* films were to follow, neither as inspired as the original but winning nonetheless. They also made *Hot Shots* and *Hot Shots: Part Deux*, which took well-deserved swipes at such films as *Top Gun*. Nielsen became an all-purpose spoof star in non-ZAZ movies as well, playing Dracula for Mel Brooks, a James Bond character in *Spy Hard*, and a *Fugitive*-like man-on-the-run in *Wrongfully Accused*.

But by the mid-1990s, ZAZ had lost their enthusiasm for such fare, and their parodies grew slack and listless. David Zucker's *High School High*, set in an inner-city school, was an ineffectual blend of *The Blackboard Jungle*, *To Sir With Love*, and *Dangerous Minds*. In 1998, they brought out two really lazy pieces of work that may have signaled an end to their time as parodists: *BASEketball* and a hoary *Godfather* thing called *Jane Austen's Mafia!*

ZAZ had a great run, but the fact that they ran out of steam wasn't due just to waning inspiration. They were undone by the self-aware, self-mocking, post-modernist approach that is now built into the movie genres of which they had once made such gleeful sport. The most influential American moviemaker of the 1990s, Quentin Tarantino, sends up his own movies even as they are unrolling in front of you. And *Scream*, the basis for *Scary Movie*, is itself partly a parody—and is, even with its genuine scariness, far funnier than the movie that wants to make fun of it.

The types of movies that are ripe for a good slap in the face these days are precisely the ones Hollywood will never touch. A really daring parodist could score by going after *Saving Private Ryan* or *Amistad* or *American Beauty*, because they drip with the earnestness that cries out for someone mischievous with a needle to prick the balloon of Spielbergian self-importance. Hollywood's idea of daring these days is to show multiple images of male genitalia. But skewering its own pretentious elite? That's clearly far too much to expect. ♦

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Academic activist Edward Said is photographed throwing a stone toward Israeli troops at a tourist spot in southern Lebanon. Said calls the action "a symbolic gesture of joy."
—*News item*

Parody

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AFP Photo

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Compassionate Conditionality for Africa

arry Diamond is a senior research fellow at the Hoover Institution and a ıember of the Committee on African Studies at Stanford University.

It is hard not to nod in sad agreement with *The Economist's* recent headline on Africa, "The Hopeless Continent." No region of the world is poorer, more heavily in debt, or more besieged by civil wars, refugees, famine, preventable deadly diseases, and state repression. On no continent is life more Hobbesian, quite literally, short, nasty, and brutish.

In the grip of an AIDS epidemic, life expectancy in some African countries is plunging back to precolonial levels. Many older Africans think things were better under British or French colonial rule. With some exceptions (mainly in southern Africa, primarily Botswana), the promise of independence has been squandered.

Africa has been wretchedly governed. Its now endemic political pathologies—corruption, nepotism, ethnic domination, abuse of power, decimation of the rule of law—have seeped into the culture. There are ways of reversing this tragedy, but unconditional debt forgiveness for the poorest of the poor countries is not one of them. Africa is flat broke. The nearly $400 billion it owes internationally represents three-quarters of its GDP and nearly four times its annual exports. But in many countries, the external debt—Nigeria's more than $30 billion, for example—is equaled or exceeded by what its political leaders have embezzled from the state.

Unless African countries lay the institutional foundations of limited and accountable government, under a true rule of law, they have no hope of relief from their burdens. Those institutions will not be encouraged by an unconditional debt write-off. Rather, "forgiveness" would reinforce the irresponsibility that has brought the continent to this juncture.

Africa needs the compassion of the West, but it also needs its conditionality. **Debt must only be forgiven in exchange for lasting reforms that will control corruption.** A new American president should lead the West in offering to Africa an international bargain: debt for democracy and development for good governance.

The bargain would suspend repayments on the debt of any poor country that established credible laws and independent structures to monitor the assets and conduct of public officials; to prosecute and remove corrupt officials; to audit public accounts; to insulate the judiciary from political interference or ethnic favor; to ensure public access to government information; and to protect freedom of the press and other freedoms of expression and association.

For every year a country holds to this bargain, its external debt should be reduced by 10 percent. After ten years, if the country continues to respect its own institutions, the preexisting stock of debt should be retired altogether.

Along with debt retirement, more assistance should go to train, equip, and empower the judges, lawyers, accountants, auditors, administrators, elected officials, journalists, civil society leaders, and activists necessary to make good governance a reality.

Such a bargain would help African countries lay the institutional foundations for sustainable economic growth and for attracting foreign investment outside of oil and other minerals. Only with freedom, transparency, and a rule of law can Africa escape its miseries. Only with conditionality can the West show compassion.

— Larry Diamond

Paid for by the Hoover Institution, Stanford University.

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